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Monday
January 28, 1991

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Briefings on How To Use the Federal Register
For information on briefings in Los Angeles and San Diego, CA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

LOS ANGELES, CA

WHEN: March 4, at 9:00 a.m.
WHERE: Federal Building,
300 N. Los Angeles St.
Conference Room 8544
Los Angeles, CA
RESERVATIONS: 1–800–726–4995

SAN DIEGO, CA

WHEN: March 5, at 9:00 a.m.
WHERE: Federal Building,
880 Front St.
Conference Room 45–13
San Diego, CA
RESERVATIONS: 1–800–726–4995

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Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 91–13 of January 7, 1991

Certification on Compliance With the Namibia/Angola Accords

Memorandum for the Secretary of State

Pursuant to Section 417 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 72), I hereby certify that:

(1) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988, that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date; and

(2) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

In addition, I hereby determine and certify that:

(1) each of the signatories to the Tripartite Agreement among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988, is in compliance with its obligations under the Agreement;

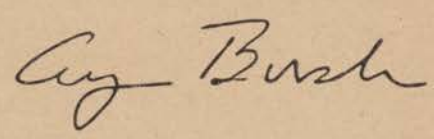
(2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops);

(3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare;

(4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO); and

(5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

You are directed to inform the appropriate committees of the Congress of this Determination and to provide them with copies of the justification explaining the basis for this Determination. You are further directed to publish this Determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 7, 1991.

[FR Doc. 91–2108
Filed 1–24–91; 3:38 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 91–14 of January 7, 1991

Assistance for the Economic Community of West Africa States (ECOWAS) To Support the ECOWAS Ceasefire Monitoring Group (ECOMOG) Peacekeeping Operation in Liberia

Memorandum for the Secretary of State

By virtue of the authority vested in me by Section 451 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2261), I hereby authorize the use of up to $2.8 million in funds made available under Chapter 4 of Part II of the Act in Fiscal Year 1987 for assistance to ECOWAS to support the ECOMOG peacekeeping operation in Liberia and its related political and humanitarian activities, notwithstanding any other provision of law.

You are requested to report this Determination immediately to the Speaker of the House of Representatives, the House Committee on Appropriations, and the Senate Committees on Foreign Relations and Appropriations. You are authorized and directed to publish this Determination in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, January 7, 1991.

[FR Doc. 91–2110
Filed 1–24–91; 3:54 pm]
Billing code 3195–01–M

Editorial note: For a statement by Press Secretary Fitzwater, dated Jan. 9, 1991, on United States assistance for Liberia, see the *Weekly Compilation of Presidential Documents* (vol. 27, p. 29)

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amendment No. 63; Doc. No. 8126S]

General Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby adopts, as a final rule, an interim rule which was published in the **Federal Register** on Monday, October 22, 1990, at 55 FR 42551. The interim rule amended the Soybean Endorsement (7 CFR 401.117) to change the end of insurance period for certain soybean producing States from December 31 to December 10. The intent of this rule is to preserve the credibility of the crop insurance program with respect to preventing a situation where adverse selectivity may result in leaving soybeans in the field after optimum harvest time has been reached.

DATES: This final rule is effective on January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of the regulations affected by this rule under those procedures. The sunset review date established for these regulations is October 1, 1992.

David W. Gabriel, Acting Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons and will not have a significant economic impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Monday, October 22, 1990, FCIC published an interim rule in the **Federal Register** at 55 FR 42551, to change the end of insurance period for certain soybean producing States from December 31 to December 10. This action was taken to preserve the credibility of the crop insurance program with respect to preventing a situation where adverse selectivity may result in leaving soybeans in the field after optimum harvest time has been reached.

Written comments were solicited for 60 days after publication in the **Federal Register**, and the rule was scheduled so that any amendment made necessary by public comment could be published in the **Federal Register** as quickly as possible. No comments were received, therefore, the interim rule published at 55 FR 42551 is hereby adopted as a final rule without change.

List of Subjects in 7 CFR Part 401

Crop insurance; Soybeans.

Final Rule

Accordingly, the interim rule published in the **Federal Register** on Monday, October 22, 1990, is hereby adopted as a final rule without change.

Authority: 7 U.S.C. 1506, 1516.

Done in Washington, DC, on January 18, 1991.

David W. Gabriel,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 91–1853 Filed 1–25–91; 8:45 am]

BILLING CODE 3410–08–M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Doc. No. R–0708]

Truth in Lending Determination of Effect on State Law (New Mexico)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determination.

SUMMARY: The Board is publishing in final form a determination that certain provisions in the law of New Mexico dealing with disclosures for certain credit transactions and penalties for noncompliance are not inconsistent with the Truth in Lending Act and Regulation Z and therefore are not preempted.

FOR FURTHER INFORMATION CONTACT: Sharon Bowman, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452–3667. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452–3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: (1) General. Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or the implementing provisions of Regulation Z and state laws. Preemption determinations are issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(3)).

(2) Discussion of specific request and final determination. The Board was asked to determine whether provisions of sections 56–8–11.2(A) and 56–8–11.3 of the New Mexico Loan Disclosure Act regarding disclosures for certain credit transactions and penalties for noncompliance are inconsistent with and therefore preeempted by provisions of the Truth in Lending Act and Regulation Z (12 CFR 226) that regulate disclosures for closed-end credit and provide penalties for noncompliance.

The Board published a proposed determination on October 17, 1990 (55 FR 42026). The Board proposed a determination that the disclosure required under section 56–8–11.2(A), as they relate to closed-end transactions, as well as the provision under section 56–8–11.3 imposing penalties for noncompliance with state law, are not preempted by federal law. (The Board also proposed a determination that there is no basis for preempting the state law definition of "creditor.") The Board received one comment supporting the proposed determination. After careful review, the Board has made a final determination confirming its proposal for the reasons discussed below.

State officials confirmed that section 56–8–11.2(D) of the state law permits creditors to substitute federal disclosures for those required under state law (although creditors are required to provide any additional state disclosures that are not addressed under federal law). The requesting party, however, still requested a determination of whether the state disclosures, as they relate to closed-end credit transactions and the disclosures required under § 226.18 of Regulation Z, are preempted. The Board has determined that the disclosures required under section 56–8–11.2(A) are not preempted by the federal law since a creditor can comply with both the state and federal provisions, and the requirement of additonal information under state law does not by itself contradict federal law. (See the notice of proposed preemption determination for further detail on the sections reviewed by the Board.) Since Regulation Z requires the disclosures under § 226.18 to be segregated from everything else, however, any additional information provided must be separate from the federal disclosures.

The Board also has determined that the state law provision (section 56–8–11.3) imposing penalties for noncompliance with the state requirements is not inconsistent with remedies provided under section 130 of the Truth in Lending Act (15 USCA 1640), since the existence of a separate remedy under state law for violation of state law provisions does not by itself contradict federal law. This determination, of course, does not extend to the issue of whether dual remedies always will be recoverable under state and federal law.

A final issue is whether there is any inconsistency between the state and federal definitions of "creditor." Since the definiton of the term "creditor" is relevant only with regard to coverage of the respective rules, the Board has determined that there is no basis for preempting the state law definition.

This notice does not contain an effective date since the Board has determined there is no preemption of state law.

List of Subjects in 12 CFR Part 226

Advertising; Banks; Banking; Consumer protection; Credit; Federal Reserve System; Finance; Penalties; Rate limitations; Truth in Lending.

Board of Governors of the Federal Reserve System, January 22, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–1903 Filed 1–25–91; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM–49; Special Conditions No. 25–ANM–37]

Special Conditions: Modified British Aerospace 125 Series Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued to Arkansas Modification Center for modification of British Aerospace Model 125 series (including DH.125, HS.125, BH.125, and BAe 125 series) airplanes. The modifications equip the airplanes with high-technology digital avionics systems that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards which the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is January 16, 1991. Comments must be received on or before March 14, 1991.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–49, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–49. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William Schroeder, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (206) 227–2148.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM–49." The postcard will be date/time stamped, and returned to the commentor.

Background

On September 10, 1990, Arkansas Modification Center applied for supplemental type certificates to modify British Aerospace Model HS125–700A

and BAe 125–800A series airplanes. The proposed modifications for the current projects incorporate a novel or unusual design feature, in the form of digital avionics consisting of dual electronic flight instrument systems (EFIS) which are vulnerable to high-intensity radiated fields (HIRF) external to the airplane. Other similar modifications often installed when updating to digital avionics include attitude and heading reference systems (AHRS) and engine indication and crew alterting systems (EICAS).

Because these are typical modernization modifications for retrofitting state-of-the-art avionics to older airplanes, it is expected that Arkansas Modification Center will apply for supplemental type certificates for installation of similar modifications on other model series of British Aerospace 125 series airplanes in the near future.

British Aerospace Model 125 series airplanes are pressurized, 8 to 15 passengers plus two pilots, executive transport type airplanes having maximum brake release weights prior to takeoff of 21,200 to 27,400 pounds, maximum operating speeds of 257 to 335 knots (IAS), and maximum operating altitudes of 40,000 to 41,000 feet, all depending on the special model series and airplane configuration. The airplanes are powered by two aft fuselage mounted turbojet or turbofan engines, depending on the specific model series and airplane configuration.

Supplemental Type Certification Basis

Under the provisions of § 21.115, subpart C, of the FAR, Arkansas Modification Center must show that the altered British Aerospace Model 125 series airplanes meet the regulations incorporated by reference for that model series in Type Certificate No. A3EU, as specified in § 21.101(a), unless: (1) Otherwise specified by the Administrator; (2) compliance with later effective amendments is elected or required under §§ 21.101 (a) or (b); or (3) special conditions are prescribed by the Administrator.

As shown on Data Sheet A3EU, the type certification regulations incorporated by reference (original certification basis) for British Aerospace Model 125 series airplanes are equivalent to Part 4b of the CAR dated December 31, 1953, as amended by Amendments 4b–1 through 4b–11, except for § 4b.350(e), including Special Civil Air Regulation No. SR–422B. In a number of areas not relevant to the installation of this avionics system, the original certification basis for a specific model series airplane also includes certain later sections of part 25 of the FAR. Compliance has also been shown with the optional ice protection requirements of § 4b.640 of the CAR, or § 25.1419 of the FAR, depending on the specific model series.

If the Administrator finds that the applicable airworthiness regulations (i.e., CAR Part 4b plus any applicable part 25 requirements) do not contain adequate or appropriate safety standards for modified British Aerospace Model 125 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.101(b)(2) to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.115(a).

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, the following special conditions are needed for the altered British Aerospace Model 125 series airplanes which require that the new technology electrical and electronic systems, such as the electronic flight instrument system (EFIS), be designed and installed to preclude component damage and interruption of function due to HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS and ADC, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–500 KHz	80	80
500 KHz–2 MHz	80	80
2 MHz–30 MHz	200	200
30 MHz–100 MHz	33	33
100 MHz–200 MHz	33	33
200 MHz–400 MHz	150	33
400 MHz–1 GHz	8,300	2,000
1 GHz–2 GHz	9,000	1,500
2 GHz–4 GHz	17,000	1,200
4 GHz–6 GHz	14,500	800
6 GHz–8 GHz	4,000	666
8 GHz–12 GHz	9,000	2,000
12 GHz–20 GHz	4,000	509
20 GHz–40 GHz	4,000	1,000

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Airworthiness Authorities.

Although the present installations are in Model HS 125–700A and Model BAe 125–800A airplanes, these special conditions are equally applicable to a similar installation made in any other Model 125 series airplane (including DH.125, HS.125, BH.125, and BAe 125 series).

Conclusion: This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subject to the notice and public comment procedure in several prior instances. For this reason and because a delay would significantly affect the applicant's installation of the system and certification of the airplane,

which is imminent, the FAA has determined that good cause exists for adopting these special conditions without notice. Therefore, these special conditions are issued without substantive changes for this airplane and made effective upon issuance.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to Arkansas Modification Center as part of the supplemental type certification basis applicable to electrical and electronic systems being modified on British Aerospace Model 125 series airplanes:

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system being modified, which performs critical functions, must be designed and installed to ensure that the opeation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to externally radiated electromagnetic energy.

2. The following definition applies with respect to these special conditions:

Critical Function. Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1875 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-50-AD; Amendment 39-6871]

Airworthiness Directives; Airship Industries Skyship Model 600 Airships

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Airship Industries Skyship Model 600 airships. This action requires the installation of a modified ignition control unit. An incident has been reported where dual engine failure occurred when the ignition control units were exposed to high intensity radiated fields (HIRF). The action required by this AD is intended to minimize the possibility of engine failure caused by HIRF, and the resulting possible loss of control of the airship in adverse wind conditions.

EFFECTIVE DATE: February 28, 1991.

ADDRESSES: Airship Industries Service Bulletin REF 600-74-314, Revision 1, dated June 5, 1990, that is discussed in this AD may be obtained from Airship Industries (UK) Limited, Manager, Technical Publications, Shortstown, Bedford, MK42 OTF, England; Telephone (44-234) 741901; Facsimile (44-234) 740190; or Airship Industries USA, Inc., Engineering Manager, Route 4, Box 109, Elizabeth City, North Carolina 27909; Telephone (919) 330-5511; Facsimile (919) 330-4241. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Carl F. Mittag, Aircraft Certification Staff, Europe Africa, and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 ext. 2710; Facsimile (322) 230.68.99; or Mr. John P. Dow, Sr., Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to Airship Industries Skyship Model 600 airships was published in the Federal Register on November 7, 1990 (55 FR 46826). The proposed AD would require the installation of the MOD 3 ignition control unit as described in Airship Industries Service Bulletin (SB) REF 600-74-314, Revision 1, dated June 5, 1990.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. These minor corrections will not change the meaning of the AD or add any additional burden upon the public than was already proposed.

It is estimated that 3 airships will be affected by this AD, that it will take approximately 3 hours per airship to accomplish the required actions at $40 an hour, and that there is no cost in obtaining the improved ignition control units because of an exchange program with Airship Industries as described in SB REF 600-74-314, Revision 1, dated June 5, 1990. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $360.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Airship Industries: Amendment No. 39-6871; Docket No. 90-CE-50-AD.

Applicability: Skyship Model 600 airships (all serial numbers), certificated in any category.

Compliance: Required within the next 250 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent ignition control unit failure and subsequent total loss of engine power, accomplish the following:

(a) Remove all ignition control units, Part Number (P/N) ASI/L/80 Issue D, MOD 1 or 2, and replace with P/N ASI/L/80 Issue E, MOD 3 ignition control units, as described in Airship Industries Service Bulletin (SB) REF 600-74-314, Revision 1, dated June 5, 1990.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(c) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Aircraft Certification Staff, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Staff.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Airship Industries Limited, Manager, Technical Publications, Shortstown, Bedford, MK42 OTF, England; or Airship Industries USA, Inc., Engineering Manager, Route 4, Box 109, Elizabeth City, North Carolina 27909; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on February 28, 1991.

Issued in Kansas City, Missouri, on January 14, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1864 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-ASW-3; Amdt. 39-6856]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206B, 206L, 206L-1 and 206L-3 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the installation of flow restrictors on certain Bell Helicopter Textron, Inc. Model 206A, B, L, L-1 and L-3 helicopter emergency float systems. This AD is needed to prevent unequal float inflation which could result in aircraft rollover and impede emergency egress following an emergency water landing.

EFFECTIVE DATE: February 28, 1991.

ADDRESSES: The applicable service bulletins may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, or may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Roger P. Chudy, Rotorcraft Certification Office, ASW-170, FAA, Southwest Region, Fort Worth, Texas 76193-0170, telephone (817) 624-5167.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Administration to include an AD requiring the installation of flow restrictors on certain Bell helicopter emergency float systems was published in the **Federal Register** on June 7, 1990 (55 FR 23219).

The proposal was prompted by reports of uneven float bag inflation in the emergency float system installed on Bell Model 206A, B, L, L-1 and L-3 helicopters during routine functional tests. A subsequent investigation by the manufacturer revealed that the float bags may contain inflation valves produced by two different manufacturers. These valves have different inherent gas flow restriction characteristics, and as a result, a combination of the two could result in an unequal float inflation if the system is actuated.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation would involve an estimated 530 emergency float kits, each using 6 float bags. Approximately 9 manhours per kit would be required to identify and install restrictors on the affected inflation valves at a cost of $285 for the BHTI-supplied materials kit for a total cost of $645, or $341,850 for the fleet. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Bell Helicopter Textron, Inc. (BHTI): Amendment 39-6856. Docket No. 90-ASW-3.

Applicability: All Model 206A, 206B, 206L, 206L-1, and 206L-3 helicopters equipped with emergency float bags, part numbers (P/N) 206-050-248-107, -109 and -111 manufactured prior to September 1, 1989. These float bags are used in BHTI emergency float kits 206-706-210 and 206-706-211.

Compliance: Required within the next 100 hours' time in service after the effective date of this AD or upon installation of float bags from spares, unless already accomplished.

To prevent unequal float inflation which could result in aircraft rollover and impede emergency egress after an emergency water landing, accomplish the following:

(a) Inspect each float bag to determine if any square body, brass type inflation valves, P/N 222-336-101-19 or -23, are installed. If any of these valves are found, install an appropriate flow restrictor in accordance with the instructions in Appendix I of this AD for Models 206A and B, or Appendix II of this AD for Models 206L, L-1 and L-3, as applicable.

(b) An alternative method of compliance, which provides an equivalent level of safety, may be used if approved by the Manager, Rotorcraft Certification Office, ASW-170, FAA Southwest Region, Fort Worth, Texas 76193-0170, telephone (817) 624-5170.

(c) In accordance with FAR Sections 21.197 and 21.199, flight is permitted to a base where

the requirements of this AD may be accomplished.

Note: Appendix I includes material from Bell Helicopter Textron, Inc., (BHTI) Alert Service Bulletin No. 206–89–49, and Appendix II includes material from BHTI Alert Service Bulletin No. 206L–89–63, both dated October 10, 1989. A copy of the service bulletins may be obtained from BHTI, P.O. Box 482, Fort Worth, Texas 76101.

Appendix I

Model Affected: 206A/B/BIII.

Subject: Emergency Float Bag Inflation Valve Restrictors—Installation of (Service Instruction 206–115).

Helicopters Affected: Helicopters equipped with emergency float kit 206–706–211 per Service Instruction 206–115. Float bags 206–050–248–107 and –109 fitted with brass type inflation valves (square body). Part Number 206–050–248–107 and –109 float bags manufactured after 1 September 1989 will comply with the intent of this bulletin.

Description: A recent evaluation of the light weight emergency float kit inflation performance has revealed that float bags fitted with brass type inflation valves (square body) may inflate at a different rate than float bags fitted with stainless steel type inflation valves (cylindrical body).

As a result, a combination within one system of float bags having brass inflation valves mixed with float bags having stainless steel valves, could result in an unbalance or unacceptable float bag pressure if system is actuated.

To eliminate this possible system inbalance, a restrictor has been developed for installation on brass inflation valves only. This will ensure a compatible flow rate with stainless steel valves.

This Alert Service Bulletin requires the installation of restrictors on all float bags fitted with brass type inflation valves and reidentification of affected bags.

MATERIALS

Item	Part No.	Description	Quantity
1.	206-073-860-101	Restrictors	8 per ship set.
2.		Permalok Surface Conditioner	6 oz. spray can.

MATERIALS—Continued

Item	Part No.	Description	Quantity
3.	HM160	Permalok Adhesive	1 of 10 ML.

Note

—206–050–248–107 Bags require 1 restrictor each.
—206–050–248–109 Bags require 2 restrictors each.
—Order one complete ship set of restrictors for each float kit assembly.
—Order individual restrictor(s) for spare bags.

Reference: Service Instruction 206–115.

Publications Affected: Service Instruction 206–115.

Accomplishment Instructions

1. In order to determine if retrofit restrictor is required, establish which type of inflation valve is installed on individual bags. To do so, it is necessary to visually inspect each bag.

2. All 206–050–248 spare float bags fitted with brass type inflation valve must be modified in accordance with this bulletin prior to future installation. For spare bags, proceed per steps 6 through 11 of this bulletin.

Note

The aft bags (–109) have 2 valves and if they are of the brass type, each will require a restrictor.

3. If bags are installed on skid gear, remove screws securing bag, cover, and retainer to skid tube. Roll the float bag over to expose plumbing and inflation valve assembly. For A/C records, note bag P/N, S/N, skid location and type of valve installed. (See Figure 1, Page 5.)

4. Determine type of inflation valve installed. If brass valve, proceed to Step 5 of this bulletin and install restrictor(s) accordingly. If stainless steel valve, proceed to Step 12 of this bulletin.

5. Disconnect hose(s) at bag inflation valve(s).

6. Using a cotton swab and MEK, clean inlet port faying surfaces of brass valve to a depth of approximately .500 inch. Scotchbrite may be used as required. Allow to dry.

Caution

Keep MEK away from rubber coated surfaces.

7. Clean restrictor using MEK and Scotchbrite and allow to dry.

8. Protect rubberized surfaces by shielding around valve assembly. Using paper to prevent spray contamination. Apply one spray coat of Perma-Lok surface conditioner to faying surfaces of both valve assembly and restrictor (see Page 6, Figure 2). Allow to dry 3–5 minutes.

9. Apply adhesive to faying surfaces (fill half of restrictor cup) and install restrictor in valve stem. Rotate restrictor 360 degrees to ensure adhesive is evenly distributed and wipe off excess adhesive. (Refer to Figure 2, Page 6 for stack-up.) Ensure restrictor bore is clear of adhesive after installation.

10. Connect hose to inflation valve and apply standard torque for installation. (60–90 inch/lbs.)

Note

—If float bag is spare, use a flared tube and "B" nut of correct size to apply torque pressure.
—Allow to cure under torque pressure for at least 72 hours. System may be returned to service during this time.

11. Reidentify float bags as follows:

—Using commercially available acrylic enamel paint or a stencil ink in a white or yellow color, add the letters "FM" immediately following the bag part number.
—Letters should be the same size format as bag P/N.
—Prior to application of lettering, clean bag area by wiping with a lint free cloth dampened with alcohol.

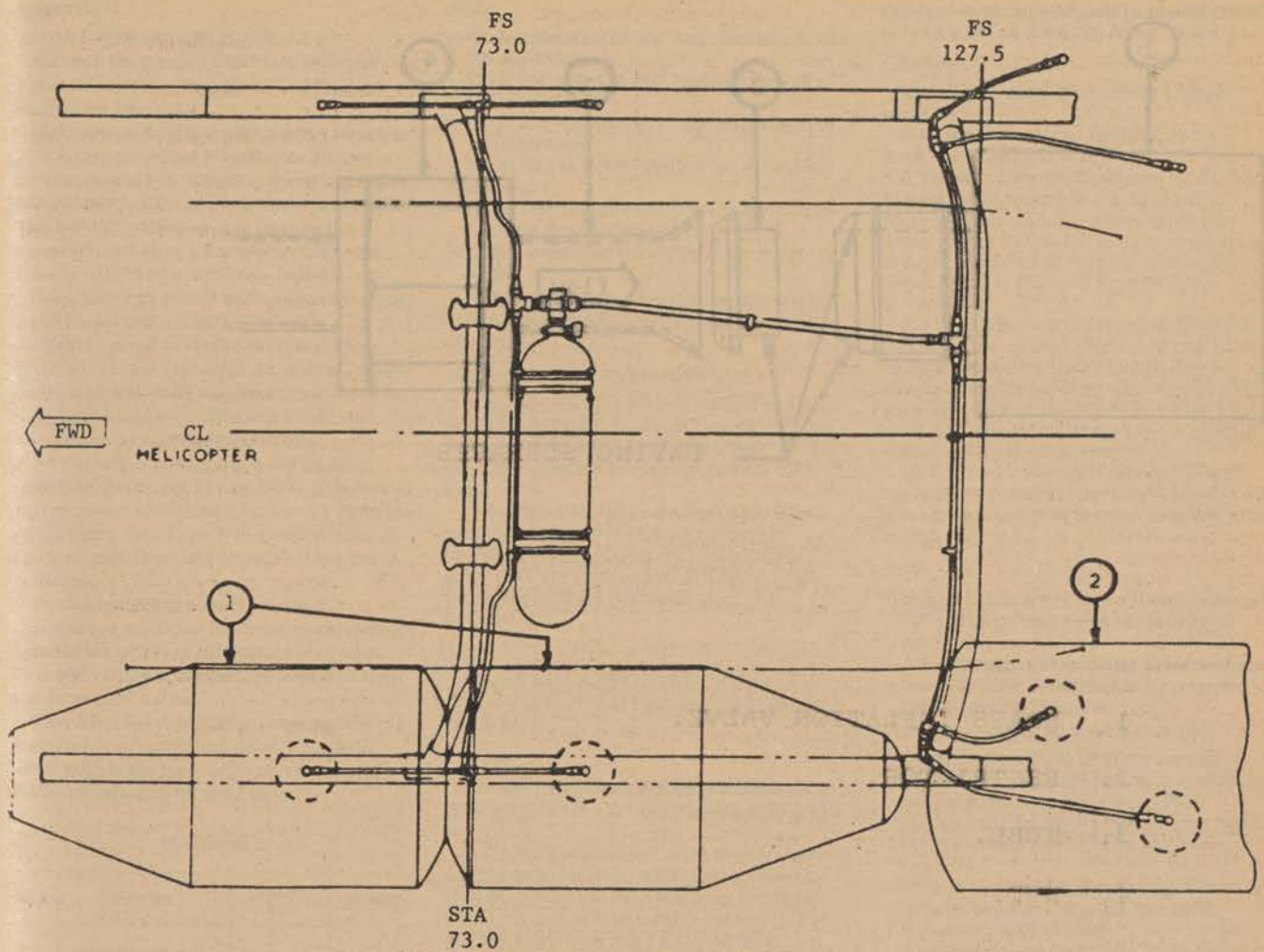
Allow to dry before repacking float bags in accordance with procedures contained in Service Instruction 206–115.

12. Align retainer, cover and girt of float bag and secure to skid tube using screws removed.

13. Repack float bags in accordance with procedures contained in Service Instruction 206–115.

14. Repeat the above procedure for each 206–050–248 series.

BILLING CODE 4910–13–M

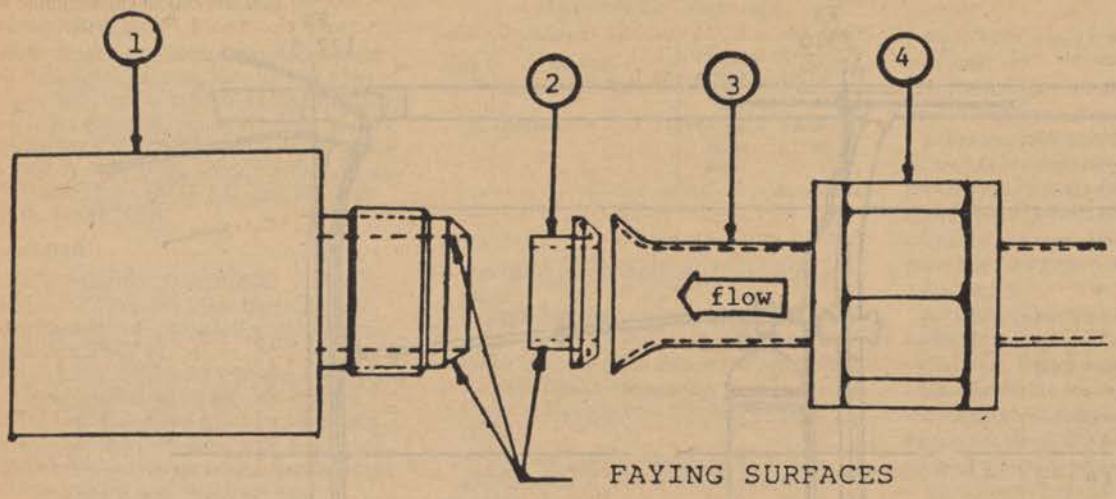


TYPICAL VIEW LOOKING DOWN

( ) BRASS INFLATION VALVES, AFFECTED LOCATIONS. (TYP.)

1. 206-050-248-107 FLOAT BAG.
2. 206-050-248-109 FLOAT BAG.

FIGURE 1



1. BRASS INFLATION VALVE.
2. RESTRICTOR.
3. TUBE.
4. NUT.

FIGURE 2

BILLING CODE 4910-13-M

Appendix II

Model Affected: 206L/L-1/L-III.

Subject: Emergency Float Bag Inflation Valve Restrictors—Installation of (Service Instruction 206-2033).

Helicopters Affected: Helicopters equipped with emergency float kit 206-706-210 per Service Instruction 206-2033. Float bags 206-050-248-107/-109 and -111. Part Number 206-050-248-107, -109 and -111 float bags manufactured after 1 September 1989 will comply with the intent of this bulletin.

Description: A recent evaluation of the light weight emergency float kit inflation performance has revealed that float bags fitted with brass type inflation valves (square body) may inflate at a different rate than float bags fitted with stainless steel type inflation valves (cylindrical body).

As a result, a combination within one system of float bags having brass inflation valves mixed with float bags having stainless steel valves, could result in an unbalance or unacceptable float bag pressure if system is actuated.

To eliminate this possible system inbalance, a restrictor has been developed for installation on brass inflation valves only. This will ensure a compatible flow rate with stainless steel valves.

This Alert Service Bulletin requires the installation of restrictors on all float bags fitted with brass type inflation valves and reidentification of affected bags.

MATERIALS

Item	Part No.	Description	Quantity
1.	206-073-860-101	Restrictor	6 per ship set.
2.	206-073-860-103	Restrictor	2 per ship set.
3.		Permalok Surface Conditioner	1 of 6 oz. spray can.
4.	HM 160	Permalok adhesive	1 of 10 ML.

Note

—Each 206-050-248-107 bag requires 1 of -101 restrictors.
—Each 206-050-248-109 bag requires 2 of -101 restrictors.
—Each 206-050-248-111 bag requires 1 of -103 restrictors.

Note: No restrictor required on aft valve. See Δ Fig. 1.

—Order one complete ship set of restrictors for each float kit assembly.
—Order individual restrictor(s) for spare bags.

Reference: Service Instruction 206-2033.

Publications Affected: Service Instruction 206-2033.

Accomplishment Instructions

1. In order to determine if retrofit restrictor is required, establish which type of inflation valve is installed on individual bags. To do so, it is necessary to visually inspect each bag.

2. All 206-050-248 spare float bags fitted with brass type inflation valve must be modified in accordance with this bulletin prior to future installation. For spare bags, proceed per Steps 6 through 11 of this bulletin.

Note

The aft bags (-109) have 2 valves and if they are of the brass type, each will require a restrictor.

Caution

DO NOT INSTALL A RESTRICTOR IN AFT VALVE OF -111 (MID) BAG. SEE Δ FIG. 1.

3. If bags are installed on skid gear, remove screws securing bag, cover, and retainer to skid tube. Roll the float bag over to expose plumbing and inflation valve assembly. For A/C records, note bag P/N, S/N, skid location and type of valve installed. (See Figure 1, Page 5).

4. Determine type of inflation valve installed. If brass valve, proceed to Step 5 of this bulletin and install restrictor(s) accordingly. If stainless steel valve, proceed to Step 12 of this bulletin.

5. Disconnect hose(s) at bag inflation valve(s).

6. Using a cotton swab and MEK, clean inlet port faying surfaces of brass valve to a depth of approximately .500 inch. Scotchbrite may be used as required. Allow to dry.

Caution

Keep MEK away from rubber coated surfaces.

7. Clean restrictor using MEK and Scotchbrite and allow to dry.

8. Protect rubberized surfaces by shielding around valve assembly. Using paper to prevent spray contamination, apply one spray coat of Perma-lok surface conditioner to faying surfaces of both valve assembly and restrictor. (See Figure 2, Page 6). Allow to dry 3-5 minutes.

9. Apply adhesive to faying surfaces (fill half of restrictor cup) and install restrictor in valve stem. Rotate restrictor 360 degrees to ensure adhesive is evenly distributed and wipe off excess adhesive. (See Figure 2 for stack-up). Ensure restrictor bore is clear of adhesive after installation.

10. Connect hose to inflation valve and apply standard torque for installation. (Fwd and aft bags 60-90 in/lbs mid bags 200 to 250 in/lbs.

Note

—If float bag is spare, use a flared tube and "B" nut of correct size to apply torque pressure.
—Allow to cure under torque pressure for at least 72 hours. System may be returned to service during this time.

11. Reidentify float bags as follows:

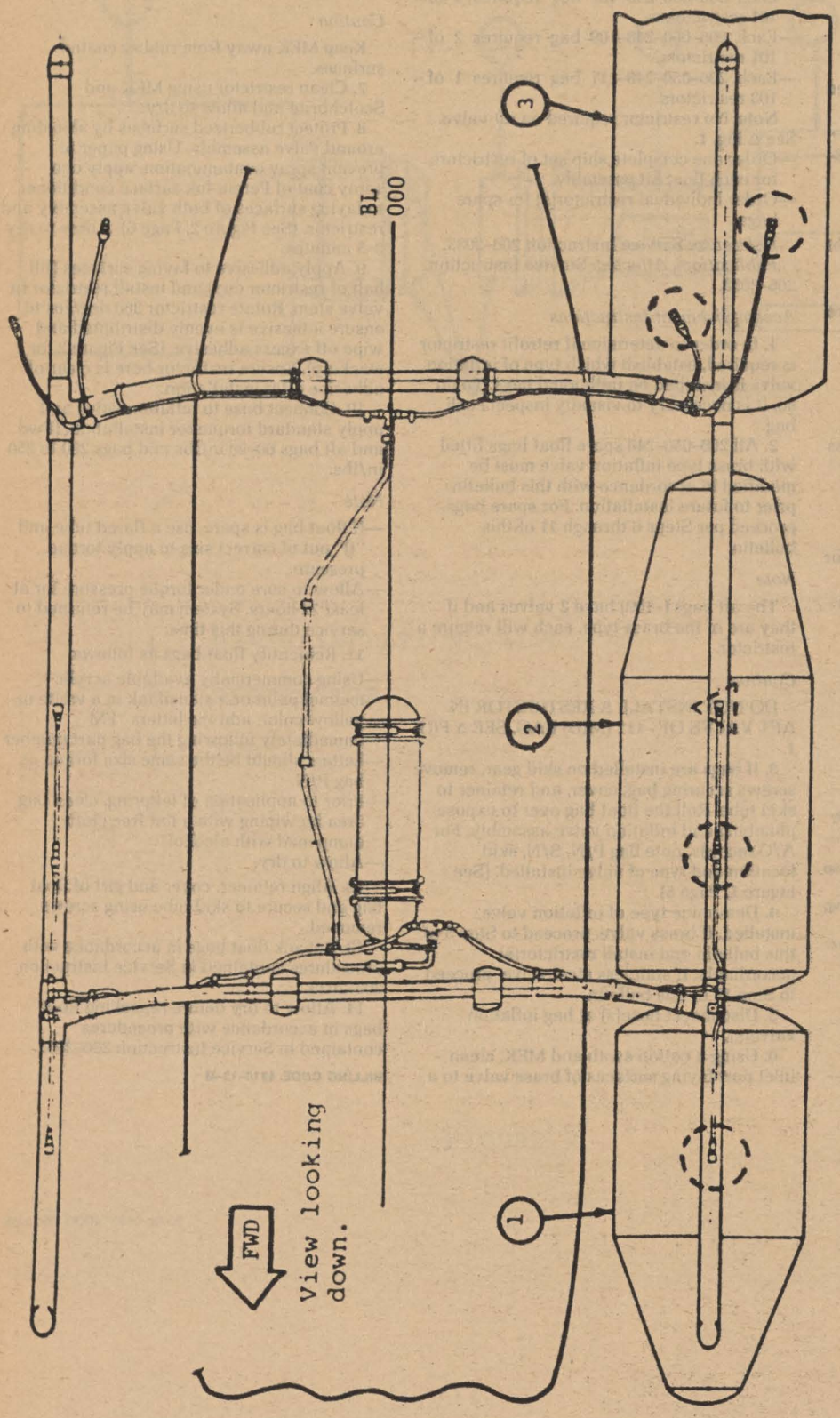
—Using commercially available acrylic enamel paint or a stencil ink in a white or yellow color, add the letters "FM" immediately following the bag part number
—Letters should be the same size format as bag P/N.
—Prior to application of lettering, clean bag area by wiping with a lint free cloth dampened with alcohol.
—Allow to dry.

12. Align retainer, cover and girt of float bag and secure to skid tube using screws removed.

13. Repack float bags in accordance with procedures contained in Service Instruction 206-2033.

14. Allow to dry before repacking float bags in accordance with procedures contained in Service Instruction 206-2033.

BILLING CODE 4910-13-M



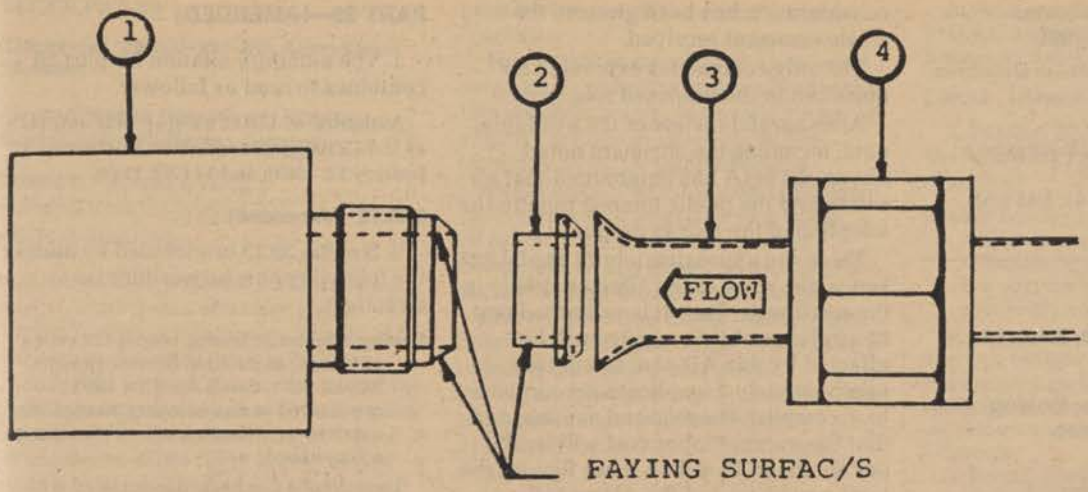
- BRASS INFLATION VALVES, AFFECTED LOCATIONS. (TYP.)

1 - 206-050-248-107 FLOAT BAG.

2 - 206-050-248-111 FLOAT BAG. DO NOT ADD RESTRICTOR AT THIS LOCATION

3 - 206-050-248-109 FLOAT BAG.

FIGURE 1



1. BRASS INFLATION VALVE.
2. RESTRICTOR.
3. TUBE.
4. NUT.

FIGURE 2

BILLING CODE 4910-13-C

Amendment 39-6856 becomes effective on February 28, 1991.

Issued in Fort Worth, Texas, on December 27, 1990.

Michele M. Owsley,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 91-1965 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-189-AD; Amdt. 39-6874]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which prohibits storage of items other than life rafts in the life raft stowage compartments unless certain modifications are accomplished. This amendment is prompted by an operator's report that loose items stored in these compartments became discolored and scorched after falling through gaps in the compartment onto hot passenger service unit lights. This condition, if not corrected, could result in onboard cabin fire.

EFFECTIVE DATE: March 4, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Terrell W. Rees, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2785. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 727 series airplanes, which requires modification of compartments originally used for life raft stowage, was published in the **Federal Register** on October 19, 1990 (55 FR 42395).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The only commenter expressed no objection to the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 72 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 71 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,680. Modification of each airplane's compartments, should operators choose to accomplish it, will require approximately 66 manhours at a labor cost of $40 per manhour. Modification kits cost $5,208 per airplane. Total cost to modify each airplane is estimated to be $7,848.

The regulations adopted herein will not have substantial direct affects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 727 series airplanes, as listed in Service Bulletin 727-25-0271, dated April 19, 1990, certificated in any category. Compliance required as indicated, unless previously acomplished.

To prevent a fire hazard associated with unrestrained loose items in life raft stowage compartments falling onto hot passenger service unit lights, accomplish the following:

A. Within the next 30 days after the effective date of this AD, install a placard on each affected life raft compartment, stating: "LIFE RAFT STOWAGE ONLY"

B. The life raft compartment may be used for stowage and the placard required by paragraph A. of this AD may be removed if or when the life raft compartment is modified in accordance with Boeing Service Bulletin 727-25-0271, dated April 19, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 4, 1991.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1866 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-281-AD; Amendment 39-6864]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-400 series airplanes, which imposes operational restrictions on the use of the flight management system abeam points function. This amendment is prompted by incidents of the flight management system ordering navigation waypoints out of sequence. This condition, if not corrected, could result in the airplane flying to an uncommanded waypoint in the direction opposite of the planned flight path.

EFFECTIVE DATE: February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Paasch, Seattle Aircraft Certification Office, Systems & Equipment Branch, ANM-130S; telephone (206) 227-2794. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: An in-flight incident involving a Model 747-400 series airplane, confirmed by laboratory investigations, has demonstrated that the use of the abeam points function may result in the flight management system commanding an unanticipated turn to intercept an improperly sequenced waypoint. If a direct-to route modification that includes abeam points is executed and the flight plan includes latitude/longitude reporting points, the resulting list of abeam waypoints could be inserted into the Flight Management Computer (FMC) legs page in wrong sequence. If this occurs, the lateral navigation function of the flight management system will turn the airplane to fly a track reversal back to an out-of-sequence waypoint and then turn again to fly the planned route as the waypoints are sequenced. The FMC performance data and top-of-descent calculations may also be affected. This condition, if not corrected, could cause the airplane to turn off the anticipated route and reverse its course of flight.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) and the installation of equipment placards to prohibit the use of the abeam points function.

This action is considered an interim measure. A software revision correcting this condition is not yet available for all engine versions of the FMC, but is currently being developed by the manufacturer. The FAA may consider further rulemaking action to require retrofitting the flight management computers with a modified design when such as design becomes available.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, and evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 747-400 series airplanes, certificated in any category. Compliance required within 30 days after the effective date of this AD, unless previously accomplished.

To prevent inadvertently reversing the direction of flight due to the flight management system commanding an unanticipated turn to intercept an out-of-sequence waypoint, accomplish the following:

A. Install placards on or directly adjacent to both the left and right Control Display Units (CDU), in positions clearly visible to the flight crew, stating: Use of "ABEAM PTS" FMC Function Prohibited.

B. Revise the Limitations Section, Electronics Subsection, of the FAA-approved Airplane Flight Manual (AFM), to add the following statement: "Do not use the FMC ABEAM PTS function." This may be accomplished by inserting a copy of this AD in the AFM.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

This amendment becomes effective February 4, 1991.

Issued in Renton, Washington, on January 8, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1865 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-175-AD; Amdt. 39-6875]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-400 series airplanes, which requires

modification of certain second observer's ashtray installations. This amendment is prompted by a report of smoking material possibly falling behind the sidewall lining when the ashtray is either partially opened or closed. This condition, if not corrected, could result in the smoking material starting a fire.

EFFECTIVE DATE: March 4, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jayson B. Claar, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2784. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 747-400 series airplanes, which requires modification of certain second observer's ashtray installations, was published in the **Federal Register** on September 20, 1990 (55 FR 38700).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter expressed no objection to the proposed rule.

The other commenter, the airplane manufacturer, stated that, during the first production installation of the modification, it was determined that a minor revision was required: the ashtray housing had to be modified to eliminate an interference problem with a nut plate. Therefore, the service bulletin was revised to reflect the modified parts and new part number. The manufacturer requested the final rule be changed to reflect the revised service bulletin as the appropriate information source. The FAA concurs and has revised the final rule accordingly.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-25A2862, Revision 1, dated December 13, 1990, which describes installation of a housing assembly that totally encloses the outboard side of the ashtray, thus preventing any hot ashes or burning material from dropping behind the sidewall panel. This revision corrects the part number of the modification of the housing assembly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 79 Model 747-400 series airplanes of the affected design in the worldwide fleet. It is estimated that 16 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Parts will be supplied by the manufacturer at no charge to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,280.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747-400 series airplanes, as listed in Boeing Alert Service Bulletin 747-25A2862, Revision 1, dated December 13, 1990, certificated in any category. Compliance is required within the next 9 months after the effective date of this AD, unless previously accomplished.

To prevent smoking material from dropping behind the sidewall lining at the second observers station, accomplish the following:

A. Install a housing on the outboard side of the second observer's ashtray in accordance with Boeing Alert Service Bulletin 747-25A2862, Revision 1, dated December 13, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Dirctorate, 1601 Lind Avenue S.W., Renton, Washington.

This amendment becomes effective March 4, 1991.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1867 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-272-AD; Amdt. 39-6868]

Airworthiness Directives; British Aerospace Model BAe 125-800A and HS 125-700A Series Airplanes, Pre-Modification 253159; and British Aerospace Model DH/HS/BH 125 Series Airplanes Retrofitted With Garrett TFE 731 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 125–800A, HS 125–700A, and DH/HS/BH 125 series airplanes, which requires a one-time visual inspection to detect damaged Generator Control Unit (GCU) earth wires, and replacement of any damaged wires, if necessary. This amendment is prompted by a recent report of loss of overvoltage protection. This condition, if not corrected, could result in the overheating of the battery. This could subsequently lead to the loss of the pilot's and co-pilot's primary and standby heading and attitude information displays, which are necessary for safe operation of the airplane.

EFFECTIVE DATE: February 11, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20004. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113; telephone (206) 227–2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace BAe 125–800A and HS 125–700A series airplanes, and all Model DH/HS/BH Model 125 series airplanes retrofitted with Garrett TFE 731 engines. There has been a recent report of loss of DC generator overvoltage protection resulting in overheating of the battery and loss of the pilot's and co-pilot's primary and standby heading and attitude information displays. Further investigation revealed a damaged Generator Control Unit (GCU) earth wire in the area adjacent to Stud "E" on the starter/generator terminal block. This condition, if not corrected, could result in the overheating of the battery, and subsequent loss of the pilot's and co-pilot's primary and standby heading and attitude information displays, which are necessary for safe operation of the airplane.

British Aerospace has issued Service Bulletin 24–A278, dated July 26, 1990, which describes procedures for a one-time visual inspection to detect damaged GCU earth wires at the starter/generator terminal block, and replacement of damaged wires, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires a one-time visual inspection to detect damaged GCU earth wires at the starter/generator terminal block, and replacement of any damaged wire, if necessary, in accordance with the service bulletin previously described.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAe 125–800A and HS 125–700A series airplanes, pre-Modification 253159; and all pre-Modification 253159 Model DH/HS/BH 125 series airplanes that have been retrofitted with Garrett TFE 731 engines; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent the overheating of the battery and loss of the pilot's and co-pilot's primary and standby heading and attitude information displays, accomplish the following:

A. Within 30 days after the effective date of this AD, perform a visual inspection of the Generator Control Unit (GCU) earth wire, in accordance with British Aerospace Service Bulletin 24–A278, dated July 26, 1990.

1. If no evidence of damage is found, prior to further flight, perform a continuity check of the earth wire between the starter/generator terminal stud "E" and connector pin "F" on the GCU, in accordance with paragraph 2.A.(6) of the Accomplishment Instructions of the service bulletin. If continuity exists, no further action is required.

2. If evidence of damage or lack of continuity is found or suspected, prior to further flight, replace the earth wire in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM–113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM–113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective February 11, 1991.

Issued in Renton, Washington, on January 14, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1868 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-197-AD; Amdt. 39-6872]

Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146 series airplanes, which requires repetitive detailed visual inspections to detect cracks in the right and left wing outer butt straps at the Rib 2 lower skin joint, and repair, if necessary. This amendment is prompted by reports that, during production, some outer butt straps were installed over unchamfered lower wing skin edges. This condition, if not corrected, could result in failure of the butt strap and reduced structural capability of the wings.

EFFECTIVE DATE: March 4, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model BAe 146 series airplanes, which requires repetitive detailed visual inspections to detect cracks in the right and left wing outer butt straps at the Rib 2 lower skin joint, and repair, if necessary, was published in the **Federal Register** on November 2, 1990 (55 FR 46219). (A correction was also published in the **Federal Register** on November 27, 1990 (55 FR 49377).)

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the rule.

After careful review of the available date, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $160.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe 146 series airplanes with Serial Numbers E2133, E3134, E3135, E3137, E2139, E3141, E3142, E3145, E2148, E3151, and E3155; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks and prevent failure of the butt strap and reduced structural capability of the wings, accomplish the following:

A. Prior to the accumulations of 12,000 landings, or within 30 days after the effective date of this AD, whichever occurs later, perform a detailed visual inspection of the right and left wing outer butt straps at Rib 2 lower wing skin joint, in accordance with British Aerospace Service Bulletin 57-36, dated June 8, 1990. Repeat this inspection thereafter at intervals not to exceed 9,000 landings or 4½ years since last inspection, whichever occurs first.

B. If cracks are found as a result of the inspection required by paragraph A. of this AD, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport

Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 4, 1991.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1869 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-193-AD; Amdt. 39-6873]

Airworthiness Directives; British Aerospace Model BAe 146 100A and 200A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146 100A and 200A series airplanes, which requires the installation of additional mass balance weights of the elevators forward of the hinge line. This amendment is prompted by reports of control column oscillations. This condition, if not corrected, could result in oscillations (flutter) of the elevators and subsequent structural damage.

EFFECTIVE DATE: March 4, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain British Aerospace Model BAe 146 100A and 200A series airplanes, which requires the installation of additional mass balance weights to the elevators forward of the hinge line, was published in the **Federal Register** on October 11, 1990 (55 FR 41345).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The commenters supported the rule, but requested that the compliance time be extended from the proposed 120 days to 180 days. Such an extension would allow operators time to obtain parts for the modification and time to accomplish the installation of additional balance weights during times when the airplanes are brought to a main maintenance base for an extended hold. One commenter, a U.S. operator, further stated that, since its flight crews have not experienced the control column problem, safety would not be compromised by this extension. The FAA concurs. In developing an appropriate compliance time for this AD action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the practical aspect of incorporating the required modification into affected operators' maintenance schedules in a timely manner. The FAA had intended that it fall during a time of regular maintenance for the majority of affected operators. After reviewing parts availability, the average utilization rate for U.S. operators, and FAA Service Difficulty Records files (to confirm that there are no reports of this problem on file from U.S. operators of Model BAe 146-100A and -200A airplanes), the FAA has determined that extending the compliance time to 180 days will provide an acceptable level of safety.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above. The FAA has determined that this change wil neither increase the economic burdent on any operator nor increase the scope of the AD.

It is estimated that 66 airplanes of U.S. registry will be affected by this AD, that it will take approximately 42 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of required parts is estimated to be $1,238. Based on these figures, the total cost impact of the AD on U.S operators is esimated to be $192,588.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) In is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe 146 100A and 200A series airplanes, as listed in British Aerospace Service Bulletin 55-7-00955D, Revision 2, dated January 22, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent oscillations (flutter) of the elevators, accomplish the following:

A. Within 180 days after the effective date of this AD, install additional mass balance weights to the elevators forward of the hinge line, in accordance with British Aerospace Service Bulletin 55-7-00955D, Revision 2, dated January 22, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR-21.197 and 21.199 to

operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective March 4, 1991.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1870 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-38-AD; Amdt. 39-6866]

Airworthiness Directives; Certain Fairchild Models SA226 and SA227 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting Airworthiness Directive (AD) 90-14-01, which was previously made effective by individual letters as to all known U.S. owners and operators of certain Fairchild Models SA226 and SA227 airplanes. The AD superseded priority letter AD 90-12-14, and expanded the instructions that were included in the superseded AD to include the removal of the passenger seat closest to the cabin window at Station 181 and the reinforcement of the Station 181 cabin window on either the left or right side of the affected airplanes. The AD was issued to correct a known unsafe condition that resulted when ice shedding from a propeller on one of the affected airplanes broke a cabin window and caused rapid decompression of the cabin.

DATES: Effective February 11, 1991, as to all persons except those persons to whom it was made immediately effective by priority letter AD 90-14-01, issued June 29, 1990, which contained this amendment.

ADDRESSES: Fairchild Aircraft Corporation Service Bulletins 226-56-004, revised January 8, 1990, and 227-56-004, dated July 26, 1989, and Fairchild Aircraft Corporation Kit 27K22005, Revision A, dated June 14, 1990, that are discussed in this AD may be obtained from Fairchild Aircraft Corporation, P.O. Box 790490, San Antonio, Texas 78279-0490. This information may also be examined in the Rules Docket, FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ms. Michele M. Owsley, Aerospace Engineer, Airplane Certification Office, FAA, Fort Worth, Texas 76193-0150; Telephone (817) 624-5161; Facsimile (817) 624-5988.

SUPPLEMENTARY INFORMATION: On June 11, 1990, priority letter 90-12-14 was issued and made effective immediately as to all known U.S. owners and operators of Fairchild Models SA226-AT, SA226-TC, SA227-AT, and SA227-AC airplanes. The AD required the reinforcement of the Station 181 cabin window on the right side of the airplane and the removal from service of the passenger seat at that station. The AD was issued to correct a known unsafe condition that resulted when ice shedding from a propeller on one of the affected airplanes broke a cabin window. The resulting rapid decompression of the cabin caused injury to a passenger. Priority letter AD 90-12-14 took into consideration that all the affected Fairchild airplanes have propellers that rotate counterclockwise when an observer stands behind the airplane and looks forward. The fuselage geometry and engine location made the Station 181 window on the right side of the airplane the most vulnerable. Consequently, this AD only addressed the Station 181 window on the right side.

Subsequent to issuing AD 90-12-14, the FAA determined that on some Fairchild Model SA226 airplanes there are engines installed with propellers that rotate clockwise when an observer looks forward from the rear of the airplane. Based on this, the Station 181 window on the left side would be vulnerable on these airplanes.

Therefore, on June 29, 1990, priority letter AD 90-14-01 was issued and made effective immediately as to all known U.S. owners and operators of Fairchild Models SA226-AT, SA226-TC, SA227-AT, and SA227-AC airplanes. AD 90-14-01 superseded priority letter 90-12-14 and expanded the instructions that were included in the superseded AD to include the removal of the appropriate passenger seat from service and the reinforcement of the Station 181 cabin window on either the left or right side of the affected airplanes.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make AD 90-14-01 effective immediately by individual letters issued June 29, 1990, to all known U.S. owners and operators of Fairchild Models SA226-AT, SA226-TC, SA227-AT, and SA227-AC airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

90-14-01 Fairchild Aircraft Corporation (formerly Swearingen Aviation Corporation): Amendment 39-6866; Docket No. 90-CE-38-AD.

Applicability: Models SA226-AT, SA226-TC, SA227-AT, and SA227-AC airplanes (all serial numbers), certificated in any category.

Compliance: Required as indicated in the AD, unless already accomplished.

To prevent rapid cabin decompression and passenger injury due to window breakage caused by ice shed from the propellers, accomplish the following:

(a) Prior to further flight unless accomplished in accordance with AD 90-12-14, modify the passenger seat adjacent to the cabin window at Station 181 on the right side of the cabin on those airplanes whose propellers turn counterclockwise looking forward, or on the left side of the cabin on those airplanes whose propellers turn clockwise looking forward, by accomplishing one of the following actions.

(1) Fabricate a placard using letters at least one inch in height on a contrasting background to read: "DO NOT OCCUPY THIS SEAT AT ANY TIME" and install this placard on the passenger seat closest to the cabin window at Station 181 of the passenger cabin in clear view of the occupants, or

(2) Remove the passenger seat closest to the cabin window at Station 181 of the passenger cabin.

(b) Within the next 30 calendar days after the effective date of this AD, unless accomplished in accordance with AD 90-12-14, reinforce the applicable cabin window located at Station 181 in the passenger cabin in accordance with either paragraph (b)(1) or (b)(2) of this AD. The restrictions required by paragraph (a) of this AD are no longer applicable when this modification has been accomplished.

(1) Add an inner pane in accordance with the instructions in Fairchild Aircraft Corporation Service Bulletins 226-56-004, revised January 8, 1990, or 227-56-004, issued July 26, 1989, as applicable, or

(2) Add a metal cover over the outside of the window in accordance with Fairchild Aircraft Corporation Kit 27K22005, Revision A, issued June 14, 1990.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An alternate method of compliance or adjustment of the compliance times which provide an equivalent level of safety may be approved by the Manager, Airplane Certification Office, Fort Worth, Texas 76193-0150 (facsimile number (817) 624-5988).

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Airplane Certification Office, Fort Worth, Texas. This AD supersedes priority letter AD 90-12-14.

This amendment becomes effective on February 11, 1991, as to all persons except those persons to whom it was made immediately effective by priority letter AD 90-14-01, issued June 29, 1990, which contained this amendment.

Issued in Kansas City, Missouri, on January 7, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1871 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-285-AD; Amdt. 39-6876]

Airworthiness Directives; Learjet Model 31, 35, 35A, 36, 36A, 55, 55B, and 55C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Learjet Model 31, 35, 35A, 36, 36A, 55, 55B, and 55C series airplanes, which requires the deactivation of certain cabinet and overhead fluorescent light circuits, the fabrication of placards, and the installation of these placards on the deactivated circuit breakers. This amendment is prompted by several reports of smoke in the cabin due to high voltage arcing in the fluorescent lighting system. This condition, if not corrected, could result in electromagnetic interference, and smoke and/or fire in the cabin.

EFFECTIVE DATE: February 12, 1991.

ADDRESSES: The applicable service information may be obtained from Learjet Corporation, Customer Services, P.O. Box 7707, Wichita, Kansas 67277-7707. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Jackson, Systems and Equipment Branch, ACE-130W; telephone (316) 946-4419. Mailing address: FAA, Central Region, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas 67209.

SUPPLEMENTARY INFORMATION: There have been two reported incidents of smoke in the cabin of Learjet Model 55 series airplanes, involving an Instrument and Flight Research (IFR) inverter and an Aerospace Lighting Corporation (ALC) inverter. There also have been 16 reported incidents of smoke in the cockpit of Model 35A series airplanes equipped with ALC inverters. Analysis of these reports has revealed that the fluorescent lighting system inverters will not protect the wiring for open or short-circuit conditions, which may be caused by improper installation, improper maintenance, or excessive wear on the wires. This may lead to an arcing condition. The affected inverters are manufactured by IFR; ALC; and Precision Winding, Incorporated; and have been installed on Learjet Model 31, 35, 35A, 36, 36A, 55, 55B, and 55C series airplanes. This condition, if not corrected, could result in electromagnetic interference, and smoke and/or fire in the cabin.

The FAA has reviewed and approved Learjet Corporation Alert Service Bulletins 31-33-2A, 35/36-33-5A, and 55-33-3A, all dated December 21, 1990, which describe procedures to deactivate the cabinet and overhead fluorescent lighting circuits; and to fabricate and install placards on the deactivated circuit breakers to indicate that the circuit breakers are inoperative.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires the deactivation of the cabinet and overhead fluorescent lighting circuits; and the fabrication and installation of placards on the deactivated circuit breakers, in accordance with the service bulletins previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major

under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Learjet (Formerly Gates Learjet): Applies to Model 31 series airplanes, Serial Numbers (S/N) 001 through 023; Model 35/35A series airplanes, S/N 001 through 661; Model 36/36A series airplanes, S/N 001 through 059, 062, and 063; and Model 55/55B/55C series airplanes, S/N 001 through 144; equipped with Aerospace Lighting Corporation (ALC) inverters, Part Number (P/N) 18.95(); or Instrument and Flight Research (IFR) inverters, P/N 25-415-3-OL or 250001-240G; or Precision Winding, Incorporated inverters, P/N 6900092 or 6900054-54; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent electromagnetic interference, and smoke and/or fire in the cabin, accomplish the following:

A. Within 25 hours time-in-service after the effective date of this AD, deactivate the cabinet and overhead fluorescent lighting systems, and fabricate and install placards on the deactivated circuit breakers in accordance with the accomplishment instructions specified in the following Learjet Alert Service Bulletins, all dated December 21, 1990:

Model	*Service Bulletin*
31	31-33-2A
35, 35A, 36, 36A	35/36-33-5A
55, 55B, 55C	55-33-3A

Note: This AD applies only to airplanes with the following inverters: ALC inverters, Part Number (P/N) 18.95(); or IFR inverters, P/N 25-415-3-OL or 250001-240G; or Precision Winding, Incorporated inverters, P/N 6900092 or 6900054-54. Inverters having a different part number do not have to be deactivated.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Wichita Aircraft Certification Office (ACO), ACE-115W, FAA, Central Region, 1801 Airport Road, Room 100, Wichita, Kansas 67209.

Note: The request should be submitted directly to the Manager, Wichita ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Wichita ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Learjet Corporation, Customer Services, P.O. Box 7707, Wichita Kansas 67277-7707. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas.

This amendment becomes effective February 12, 1991.

Issued in Renton, Washington, on January 17, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1872 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-292-AD; Amdt. 39-6869]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes, Equipped With Wing-Mounted Main Landing Gear Outboard Doors With an Aluminum Hinge Half

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9 series airplanes, which requires inspections of both left and right main landing gear (MLG) outboard door assemblies, hinges, linkages, and attachments for discrepancies, and repair of descrepant parts. This amendment is prompted by reports of MLG outboard doors separating from the airplane. This condition, if not corrected, could result in damage to the horizontal stabilizer and adjacent control components of the airplane, thereby causing severe controllability problems.

EFFECTIVE DATE: February 11, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5323.

SUPPLEMENTARY INFORMATION: Fourteen operators have reported numerous instances of in-flight separation of the wing-mounted main landing gear (MLG) outboard doors. One operator reported a recent incident in which separation of the door caused major structural damage to the horizontal stabilizer. Investigations have revealed that door separations have been caused by hinge failures, door disbonding, loose/mis-rigged linkages, and linkage failures. This condition, if not corrected, could result in major structural damage to the horizontal stabilizer and adjacent control components of the airplane, thereby causing severe controllability problems.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A32-244, dated November 20, 1990, which describes procedures for: (1) Inspections of the MLG doors for delamination; (2) inspections of the MLG door linkages and their attachments for corrosion, pitting, wear, and general condition; (3) inspections of the MLG door hinge lobes on both the wing-mounted hinge half and door-mounted hinge half for cracks and corrosion; (4) measurement of the hinge lobes, if bushed, for minimum wall thickness; (5) inspections of the hinge halves on the articulating door for cracks and

corrosion; and (6) repair of discrepant parts identified as a result of these inspections and measurement.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspections of both left and right MLG outboard door assemblies, hinges, linkages, and attachment for discrepancies and requires repair of discrepant parts, in accordance with the service bulletin previously described. This AD also requires the reporting of any findings of discrepancies to the FAA.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

This AD action applies only to airplanes equipped with wing-mounted MLG outboard doors having an aluminum hinge half. The FAA plans similar rulemaking action applicable to airplanes having a titanium hinge half. However, the proposed compliance time for inspection of those airplanes is sufficiently long so that notice and public comment will not be impracticable.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to all Model DC-9-10, -20, -30, -40, -50, and C-9 (Military) series airplanes; fitted with left (LH) or right (RH) wing-mounted main landing gear (MLG) outboard door with an aluminum hinge half; certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the loss of the LH or RH wing-mounted MLG outboard door, accomplish the following:

A. Within 30 days after the effective date of this AD, and thereafter at intervals not to exceed one year, perform the following inspections in accordance with McDonnell Douglas Alert Service Bulletin A32-244, dated November 20, 1990, for both LH and RH MLG door assemblies:

1. Inspect the MLG door for delamination; and

2. Inspect the MLG door linkages and their attachments for corrosion, pitting, wear, and general condition; and

3. Inspect the MLG door hinge lobes on both the wing-mounted hinge half and door-mounted hinge half for cracks and corrosion; and

4. Measure the hinge lobes, if bushed, for minimum wall thickness of .055 inch or greater; and

5. Inspect the hinge halves on the articulating door for cracks and corrosion.

B. If discrepancies are found as a result of the inspections required by paragraph A. of this AD, prior to further flight, repair in a manner approved by the Manager of the Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

C. Within 45 days after finding a discrepancy, submit a written report of that finding to the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; FAX number (213) 988-5210. The airplane's factory Serial Number should also be identified in all discrepancy reports.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective February 11, 1991.

Issued in Renton, Washington, on January 14, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1873 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-74-AD; Amdt. 39-6870]

Airworthiness Directives; Mooney Model M20M Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Mooney Model M20M airplanes. This action requires replacement of the tailpipe coupling with an improved coupling. There has been a report of an incident where the coupling that connects the turbocharger and the exhaust tailpipe separated on an affected airplane and allowed exhaust gases to impinge the firewall, which resulted in diffused heat and ignition of

the material inside the cabin. The actions specified in this AD are intended to prevent the loss of the tailpipe coupling and the subsequent discharge of high temperature gases inside the engine compartment that could result in the airplane cabin catching fire.

EFFECTIVE DATE: February 19, 1991.

ADDRESSES: Mooney Aircraft Corporation Special Letter 90–06, dated November 1, 1990, that is discussed in this AD may be obtained from Mooney Aircraft Corporation, P.O. Box 72, Kerriville, Texas 78029–0072; Telephone (512) 896–6000. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ms. Alma Ramirez-Hodge, FAA, Southwest Region, Airplane Certification Office, Fort Worth, Texas 76193–0150; Telephone (817) 624–5147.

SUPPLEMENTARY INFORMATION: On October 12, 1990, a Mooney Model M2OM airplane was forced to make an emergency landing at the Culpeper Airport in Virginia. Prior to the emergency landing, the pilot had refueled the airplane at Culpeper Airport. The pilot stated that he had checked the cabin heat selector during the refueling operation because he had noticed excessive heat in the cabin. The cabin heat control was in the off position. The pilot then checked in the engine compartment and did not notice anything unusual. After refueling and during taxi, the pilot noticed another increase in cabin temperature. During the takeoff climb at 600 feet, the pilot noticed a fire inside the cabin around the rudder pedals. Immediately, the pilot made a 180-degree turn and performed a wheel-up emergency landing at the airport. The pilot and the one passenger were able to exit the airplane without serious injury.

Results of the accident investigation showed that the coupling that connects the turbocharger and the exhaust tailpipe had separated and allowed exhaust gases to impinge on the firewall. The firewall remained intact, but excessive diffused heat caused the material inside the cabin to ignite.

As a result of the above incident, Mooney Aircraft Corporation issued Special Letter 90–06, dated November 1, 1990, which specifies the replacement of the tailpipe coupling (part numbers (P/N) MVT69183–275, LW–12093–8, 4571–275, 4574–275, or 4391 AF) with an improved tailpipe coupling (P/N 55677–340M or 40D21162–340M). The FAA has determined that these improved tailpipe couplings will help prevent the separation of the tailpipe from the turbocharger and the subsequent discharge of high temperature gases inside the engine compartment that could result in the airplane cabin catching fire.

Since the unsafe condition discussed above is likely to exist or develop in other Mooney Model M20M airplanes of the same type design, the FAA has determined that immediate AD action must be taken requiring the replacement of the tailpipe coupling (P/N MVT69183–275, LW–12093–8, 4571–275, 4574–275, or 4391 AF) with an improved tailpipe coupling (P/N 55677–340M, or 40D21162–340M) in accordance with the Mooney Aircraft Corporation Special Letter 90–06, dated November 1, 1990. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Mooney Aircraft Corporation: Amendment 39–6870; Docket No. 90–CE–74–AD.

Applicability: Model M20M airplanes (serial numbers (S/N 27–0001 through 27–0071, S/N 27–0073, S/N 27–0075, and S/N 27–0076), certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the discharge of high temperature exhaust gases inside the engine compartment that could result in the airplane cabin catching fire, accomplish the following:

(a) Replace the tailpipe coupling (P/N MVT69183–275, LW–12093–8, 4571–275, 4574–275, or 4391 AF) with an improved tailpipe coupling (P/N 55677–340M or 40D21162–340M) in accordance with the instructions in Mooney Aircraft Corporation Special Letter 90–06, dated November 1, 1990.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(c) An alternate method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Southwest Region, Airplane Certification Office, Fort Worth, Texas 76193–0150. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Mooney Aircraft Corporation, P.O. Box 72, Kerriville, Texas 78029–0072; Telephone (512) 896–6000; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on February 19, 1991.

Issued in Kansas City, Missouri, on January 14, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–1874 Filed 1–25–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 26439; Amdt. No. 1444]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on January 18, 1991.

Thomas C. Accardi,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME,

LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective April 4, 1991

Cullman, AL—Folsom Field, NDB RWY 19, Amdt. 2
Galena, AK—Galena, RADAR-1, Amdt. 8
Louisville, MS—Louisville Winston County, NDB RWY 17, Amdt. 3
Springfield, TN—Springfield Muni, NDB RWY 22, Amdt. 3
Gainesville, TX—Gainesville Muni, NDB RWY 17, Amdt. 6
Huntsville, TX—Huntsville Muni, VOR/DME-A, Amdt. 5
Marfa, TX—Marfa Muni, VOR RWY 30, Amdt. 4
Wichita Falls, TX—Tom Danaher, VOR/DME RWY 35, Amdt. 1

Effective March 7, 1991

Bay Minette, AL—Bay Minette Muni, VOR RWY 8, Amdt. 6
Windsor Locks, CT—Bradley Intl, ILS RWY 33, Amdt. 3
Cedartown, GA—Cornelius-Moore Field, VOR-A, Amdt. 12
Madison, IN—Madison Muni, NDB RWY 3, Amdt. 2
Monroe, LA—Monroe Regional, RADAR-1, Amdt. 5
Detroit, MI—Detroit Metropolitan Wayne County, ILS RWY 21R, Amdt. 25
Detroit, MI—Detroit Metropolitan Wayne County, RADAR-1, Amdt. 21
Natchez, MS—Hardy-Anders Field Natchez-Adams County, VOR RWY 17, Amdt. 10
Natchez, MS—Hardy-Anders Field Natchez-Adams County, VOR/DME RWY 13, Amdt. 2
Natchez, MS—Hardy-Anders Field Natchez-Adams County, LOC RWY 17, Amdt. 4
Natchez, MS—Hardy-Anders Field Natchez-Adams County, NDB RWY 17, Amdt. 4
Gallatin, TN—Sumner County Regional, VOR/DME-A, Orig.

Effective February 7, 1991

Artesia, NM—Artesia Muni, NDB RWY 12, Amdt. 2
Artesia, NM—Artesia Muni, NDB RWY 30, Amdt. 2

Effective January 17, 1991

Las Vegas, NV—McCarran Intl, VOR RWY 25R, Amdt. 12
Las Vegas, NV—McCarran Intl, ILS RWY 25R, Amdt. 14

Effective January 9, 1991

Wheeling, WV—Wheeling Ohio Co, VOR RWY 21, Amdt. 12

[FR Doc. 91-1876 Filed 1-25-91; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 772 and 774

[Docket No. 901079-0279]

Procedural Changes in Validating Licenses and Duplicate Reexport Authorizations for Hong Kong

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) has made operational changes in validating licenses. The purpose of this regulation is to describe the current computer generated license issuance and validation process and explain the special provisions made for providing duplicate authorizations for exports through and reexports from Hong Kong.

The Hong Kong Government currently requires an original validated copy of the U.S. export license/reexport authorization before allowing U.S. origin COCOM-controlled commodities to be shipped from Hong Kong. To accommodate exporters, BXA will issue duplicate documents. Whenever an export license is issued with a party in Hong Kong listed as intermediate consignee and whenever an authorization for reexport from Hong Kong is issued, two identical documents will be printed and sent to the applicant. The first is for the applicant's files. The second, labeled "duplicate for Hong Kong Trade Department", is provided for the applicant to forward to the Hong Kong Government.

EFFECTIVE DATE: This rule is effective January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Chuck Guernieri, Export Counseling Division, Office of Export Licensing, U.S. Department of Commerce, Washington, DC 20230 (Telephone: (202) 377-4811).

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005. This rule, however, will not impact on the actual number of export license applications. This rule also contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and approved by OMB under Control No. 0694-0010. Public reporting for this collection of information is estimated to average twenty-five minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect to this collection of information, including suggestions for reducing this burden, to the Office of Security and Management Support, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: Paperwork Reduction Project 0694-0010).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date, are inapplicable because this regulation involves a foreign and military affairs function. This rule does not impose a new control. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharon Gongwer, Office of Technology and Policy Analysis, Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20034.

List of Subjects in 15 CFR Parts 772 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR parts 768-799) are amended as follows:

PART 772—[AMENDED]

1. The authority citation for 15 CFR part 772 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended, Pub. L. 95–223, 91 Stat. 1625, (50 U.S.C. 1701 *et. seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373 of October 2, 1990).

2. Section 772.9 is amended by revising paragraphs (a) and (b) to read as follows:

§ 772.9 Issuance of validated licenses.

(a) *General.* A validated license authorizes only the specific transaction as described in the license application and any supporting documents. A transaction authorized under a license may be further limited by conditions or other restrictions appearing on the license itself or in the Export Administration Regulations. When a license application is approved by the Office of Export Licensing, a license is issued as described in paragraph (b) of this section.

(b) *Issuance of license documents.* (1) Each application form includes a preprinted control number. This control number, consisting of a letter followed by six digits, is not an export license number. This control number is for use by BXA and by applicants when communicating with BXA concerning their pending applications.

(2) When a license application is received in the Office of Export Licensing, it is assigned a case number, consisting of a letter followed by six digits, for tracking purposes within the U.S. Government.

(3) After an application is approved, a license document is computer generated bearing the license number and the Department of Commerce seal which serves to validate the license. A validated license must show this seal as well as the date of validation and the expiration date. Where necessary, attachments to a license will also be validated with the Department of Commerce seal and the date of validation. Only the export license number, a letter followed by six digits, should be used to identify an approved license. Exporters are cautioned to use the complete export license number when preparing Shipper's Export Declarations or other export documents or when communicating (after issuance) with the Office of Export Licensing.

(4) *Duplicate for the Trade Department, Hong Kong Government.* (i) The Office of Export Licensing will issue automatically a duplicate validated license or reexport authorization whenever:

(A) The export license lists a party in Hong Kong as the intermediate consignee; or

(B) The reexport authorization identifies Hong Kong as the country from which the reexport will take place (see also § 774.3(b) (1) and (2) of this subchapter).

(ii) The duplicate validated license/reexport authorization—labeled "Duplicate for Hong Kong Trade Department"—must be forwarded to the reexporter or intermediate consignee for submission to the Trade Department, Hong Kong Government. The applicant must retain the original copy of the export license/reexport authorization on file (see § 772.9(g) and § 774.7 of this subchapter).

* * * * *

PART 774—[AMENDED]

4. The authority citation for 15 CFR part 774 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended, Pub. L. 95–223, 91 Stat. 1625, (50 U.S.C. 1701 *et. seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861 of September 10, 1985), as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et. seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986); E.O. 12730 of September 30, 1990 (55 FR 40373 of October 2, 1990).

5. In § 774.3, paragraphs (b)(1) and (b)(2) are revised as follows:

§ 774.3 How to request reexport authorization.

* * * * *

(b) * * *

(1) *Formal request.* If a commodity previously exported from the United States to a foreign destination is to be reexported from that destination and the reexport requires prior authorization under the provisions of § 774.1, either the U.S. exporter or the foreign firm intending to effect the reexport shall submit a Form BXA–699P, Request for Reexport Authorization, to the Office of Export Licensing. (See Supplement No. 1 to this part 774 for instructions on completing the form.) If the reexport request is approved, a validated reexport authorization will be computer-generated by the Office of Export Licensing and forwarded to the applicant. When a request for reexport from Hong Kong is approved, the Office of Export Licensing will also issue automatically a duplicate reexport authorization, validated with the Department of Commerce seal, dated, and stamped "Duplicate for Hong Kong Trade Department." If the reexport request is disapproved, the applicant will be so notified and advised of the reasons.

(2) *Letter request.* If Form BXA–699P is not readily available to a foreign party, a letter may be submitted, subject titled "Reexport Request," setting forth: The name and address of the applicant; the general or validated license under which shipment was previously made from the United States; the name and address of new ultimate consignee; the original ultimate consignee; whether reexport, sale, or other disposition is requested; a description of commodities, to include the quantity, and dollar value; the and end-use by new ultimate consignee. The applicant shall certify that the above statements are true to the best of his knowledge and belief, and that, if authorization is granted, he will be accountable for its use in accordance with the Export Administration Regulations and all terms and conditions specified on the authorization. If the reexport request is approved, a validated authorization will be computer-generated by the Office of Export Licensing and forwarded to the applicant. When a request for reexport from Hong Kong is approved, the Office of Export Licensing will also automatically issue a duplicate reexport authorization, validated, and stamped "Duplicate for Hong Kong Trade Department." If the reexport request is disapproved, the applicant will be notified and advised of the reasons.

* * * * *

Dated: January 16, 1991.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 91–1610 Filed 1–25–91; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 381

[Docket No. RM87–26–004, Order No. 527–A]

Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act; Order Denying Reconsideration and Clarifying Final Rule

January 18,1991.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying reconsideration and clarifying final rule.

SUMMARY: On October 10, 1990, the Federal Energy Regulatory Commission (Commission) issued Order No. 527, a final rule amending the Commission's regulations concerning fees for rate schedule filings under sections 205 and 206 of the Federal Power Act (FPA).[1] The new fee system classifies rate schedule filings and establishes fees based upon the time needed by the Commission's staff to process an average filing within that class. The Commission issued the Final Rule in substantial conformity with the NOPR.

On November 9, 1990, ten public and municipal electrical systems and the American Public Power Association (collectively, Public Systems) [2] filed a joint request for rehearing or reconsideration of Order No. 527. Order No. 527–A denies reconsideration and dismisses rehearing of Order No. 527. This order does not affect the status of the proceedings in any other docket. The positions of the parties in the foregoing proceedings are fully preserved. The Commission will resolve all pending proceedings relating to filing fees in a subsequent order or orders.

Order No. 527–A also amends the regulatory text to clarify the intent of Order No. 527 with respect to the appropriate filing fee when utilities file more cost-of-service data with the Commission than they are obligated to file.

EFFECTIVE DATE: The amendment to the final rule is effective January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Betty N. Toepfer, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NW., Washington, DC 20426 (202) 208–0464.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), and electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

On October 10, 1990, the Federal Energy Regulatory Commission (Commission) issued Order No. 527, a final rule amending the Commission's regulations concerning fees for rate schedule filings under sections 205 and 206 of the Federal Power Act (FPA).[3] This order denies reconsideration and dismisses rehearing of Order No. 527. This order does not affect the status of the proceedings in any other docket.[4]

II. Background

In Order No. 527, the Commission revised § 381.502 of its regulations [5] and established a five-class system for electric rate filings under sections 205 and 206 of the FPA. The new fee system classifies rate schedule filings and establishes fees based upon the time needed by the Commission's staff to process an average filing within that class. Under this system, incoming filings are assigned to one of five fee classes based on the type of filing, ranging from the simplest rate schedule filings to the most complex. No fee is assessed for Class I. For Classes II, III, and IV, the fee is based on the actual cost to the Commission of processing an average filing within that class. For Class V, the fee is based on less than full cost recovery.

A fee is established for each filing based upon the data submitted in support of the filing. As stated in the Notice of Proposed Rulemaking (NOPR) issued in this proceeding on May 24, 1990, [6]

> Classes III, IV and V would include rate schedule filings that are rate increases * * * *supported by*, respectively: (a) Abbreviated cost-of-service data (Class III); (b) Period I cost-of-service data (Class IV); and (c) Period II cost-of-service data (Class V). The Commission is proposing three separate fee categories for rate increases because, in the Commission's experience, the amount of technical analysis required for each type of rate increase is significantly different, resulting in different processing costs to the Commission.[7]

The Commission issued the Final Rule herein in substantial conformity with the NOPR.[8] The Commission retained the discussion in the NOPR that was not explicitly changed by the final rule, including the principle that fees are based on the cost-of-service information submitted in support of a rate increase filing.

On November 9, 1990, ten public and municipal electrical systems and the American Public Power Association

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[1] Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act, 55 FR 41,996 (1990), 53 FERC ¶ 61,043 (1990).

[2] In addition to the American Public Power Association, Public Systems consists of: the National Rural Electric Cooperative Association; the Florida Municipal Power Agency; the Michigan Municipal Electric Association; the City of Azusa, California; the City of Colton, California Electric Department; the Braintree, Massachusetts Electric Light Department; the Chicopee, Massachusetts Municipal Lighting Plant; the Holyoke, Massachusetts Gas & Electric Department; the North Attleborough, Massachusetts Electric Department; the South Hadley, Massachusetts Electric Light Department; and the Burlington, Vermont Electric Department.

[3] Revision of Rate Schedule Filings Under Sections 205 and 206 of the Federal Power Act, 55 FR 41,996 (1990), 53 FERC ¶ 61,043 (1990).

[4] The Commission's prior rules on filing fees have been the subject of significant litigation. *See, e.g., Southwestern Electric Power Company* v. *FERC*, Nos. 88–1507, 1218 and 1546 (D.C. Cir., remanded Aug. 11, 1989) (Challenge of fees imposed under the Commission's Order No. 435, effective Nov. 4, 1985 through May 30, 1988); *Central Illinois Public Service Company* v. *FERC*, No. 88–1545 (DC Cir., remanded Aug. 11, 1989) (Challenge of fees imposed under the Commission's Order Nos. 494 and 494–A, effective May 31, 1988).

In addition, pending before the Commission are a number requests for rehearing relating to filing fees. *See, e.g.*, Central Illinois Public Service Company, Docket No. ER88–439–001; Union Electric Company, Docket No. ER88–527–001; Southwestern Electric Power Company, Docket No. ER89–571–001; Southwestern Electric Power Company, Docket No. ER90–127–001; and Arizona Public Service Company, Docket No. ER90–142–001. *See also* requests for rehearing of the annual notices of update of filing fees in Docket Nos. RM82–25–003, RM83–2–004, RM82–30–004, RM82–35–002, RM82–31–008, RM82–36–010, RM86–14–002, RM87–26–002, RM88–28–001, and RM90–5–000.

The foregoing requests for rehearing were deemed appeals of staff action when filed. On December 3, 1990, the Commission issued Order No. 530, a final rule in Docket No. RM90–11–000, Streamlining Commission Procedures for Review of Staff Action. Order No. 530 deemed all appeals of staff action pending as of December 3, 1990 to be requests for rehearing. No later then 30 days after the date of the issuance of Order No. 530, persons who had timely filed such appeals of staff action are permitted to file additional pleadings to update or supplement those appeals. The status of the foregoing proceedings remains unchanged. The Commission will resolve all pending proceedings relating to filing fees in a subsequent order or orders. The positions of the parties in the foregoing proceedings are fully preserved. This order also amends the regulatory text to clarify the intent of Order No. 527.

[5] 18 CFR 381.502 (1990).

[6] 55 FR. 22,808 (1990); 51 FERC ¶ 61,211 (1990).

[7] IV FERC Statutes and Regulations, ¶ 32,471 at 32,404. (Footnotes omitted, emphasis supplied.)

[8] *See* 55 FR 41,996 (Oct. 17, 1990).

(collectively, Public systems) [7] filed a joint request for rehearing or reconsideration of Order No. 527.[8]

At the outset, Public Systems raises a procedural issue. Public Systems states that it is a party to prior annual fee update proceedings pending before the Commission and that it raised issues in those prior proceedings which it also presented in this proceeding.[9] Public Systems states that it is not clear whether its position in each of the other proceedings is preserved. Public Systems asks the Commission to treat its November 9, 1990 pleading as a request for reconsideration if its position in each of the other proceedings is preserved.[10]

Public Systems raises four principal substantive issues.[11] First, Public Systems contends that the Commission erred in failing to extend to small customers the categorical reduction in fees granted to small filing utilities. Second, Public Systems renews its request to eliminate multiple filing fees for services provided by more than one company in an integrated holding company system. Third, Public Systems challenges the Commission's policy of charging a filing fee for adding a new customer to an existing rate schedule. Fourth, Public Systems argues that the Commission erred in failing to waive fees for economy and coordination transactions. In addition, Public Systems advocates a cap on filing fees of 2 percent of the anticipated revenue from the transaction at issue in the filing for the lesser of the term of one year or the life of the contract. Public Systems also renews its request for refunds of filing fees imposed under the Commission's prior rules.

For the reasons discussed below, the Commission denies reconsideration. The Commission, as discussed immediately below, also clarifies the final rule through the addition of an explanatory paragraph.

III. Discussion

A. Clarification

In addition to the issues raised by Public Systems, a rate schedule filing submitted since the issuance of Order No. 527 has enabled the Commission to identify a source of potential confusion in the final rule concerning the fee that is due when a filing entity submits additional data in support of a rate increase filing. Before turning to the arguments of Public Systems, the Commission will first address this issue and clarify the final rule.

Under the final rule, the fee for a rate increase filing is determined by the type of cost-of-service information submitted in support of the filing (*e.g.*, abbreviated cost-of-service information, Period I cost-of-service information or Period II cost-of-service information). From the Commission's experience to date under Order No. 527,[12] it appears that at least one filer [13] interprets the rule to require only the fee that corresponds to the cost-of-service information that the filer is required to submit in support of its rate schedule filing,[14] rather than the fee that corresponds to the cost-of-service information filer actually submits.

When a filing qualifies for the submission of only abbreviated cost-of-service information or Period I cost-of-service information but the filer submits more extensive cost-of-service information,[15] it appears that in light of the PEPCO rate schedule filing noted above, there may, in fact, be some confusion. Since the Commission, in conducting its review of the proposed rates, reviews all of the cost-of-service information submitted by the filing entity—the information required to be submitted as well as the information actually submitted—the cost of review to the Commission is identical, whatever the reason for the submission of the information.

The Independent Offices Appropriations Act (IOAA) authorizes the Commission to establish fees for the services and benefits it provides.[16] In addition, the Commission is authorized under the Omnibus Budget Reconciliation Act of 1986 (OBRA) to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year."[17] The Commission seeks to collect filing fees that reimburse the Commission for the actual costs it incurs in analyzing rate schedule filings, consistent with these standards.

As noted above, the Commission reviews all of the cost-of-service information that the filing entity submits, regardless of why that information is submitted. Consequently, the costs the Commission incurs in its review of a utility's filing, depend upon, not what the utility is required to submit, but what the utility submits. Therefore, the filing fee, which, as noted above, must reflect the cost of the Commission's analysis, must reflect the cost of analyzing the supporting information that is actually submitted. For example, when Period I cost-of-service information is submitted, even when it is not required, a Class IV filing fee (for filings with Period I data) must be submitted. Similarly, when Period II cost-of-service information is submitted, even when it is not required, a Class V filing fee (for filings with Period II data) must be submitted.

For these reasons, recognizing that the rules as adopted may not have been clear on this question, the Commission will clarify its requirements by adding the following subsection to the final

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[7] In addition to the American Public Power Association, Public Systems consists of: The National Rural Electric Cooperative Association; the Florida Municipal Power Agency; the Michigan Municipal Electric Association; the City of Azusa, California; the City of Colton, California Electric Department; the Braintree, Massachusetts Electric Light Department; the Chicopee, Massachusetts Municipal Lighting Plant; the Holyoke, Massachusetts Gas & Electric Department; the North Attleborough, Massachusetts Electric Department; the South Hadley, Massachusetts Electric Light Department; and the Burlington, Vermont Electric Department.

[8] On November 9, 1990, Central Illinois Public Service Company, Central Power and Light Company, Commonwealth Edison Company, Southwestern Electric Power Company and West Texas Utilities Company (the CIPS Group) filed a petition for refund of fees paid under protest. The Commission will address the CIPS Group's petition in a subsequent order.

[9] *See* note 2 *supra*.

[10] Request for Rehearing or Reconsideration of Public Systems at 2.

[11] Public Systems raised each of these issues in comments in this proceeding prior to the issuance of Order No. 527.

[12] The Commission's filing fees under Order No. 527 became effective on October 11, 1990, one day after issuance of Order No. 527.

[13] Potomac Electric Power Company (PEPCO), in Docket No. ER91-107-000, submitted additional cost-of-service information with its filing that it was not required to submit. Advisory staff informed PEPCO by telephone that the higher filing fee that corresponded to the information it actually submitted was required. PEPCO then paid that higher filing fee. PEPCO filed an appeal of staff action, subsequently redesignated as a request for rehearing, objecting to the higher filing fee. PEPCO's request for rehearing will be addressed in that proceeding.

We not at this point that, in the future, when a public utility pays a higher filing fee than it thinks is correct, the appropriate procedural vehicle to challenge the fee is not a request for rehearing. Instead, the appropriate procedural vehicle is a motion to the Commission requesting a refund pursuant to section 381.109 of the Commission's regulations. 18 CFR 381.109 (1990).

[14] In defining Class III, Class IV and Class V rate schedule filings, the rule states that such filings are those that either *qualify for* the submission of abbreviated cost-of-service information or Period I cost-of-service information or *require* the submission of Period II cost-of-service information. *See* 18 CFR 381.502 (d), (e) and (f).

[15] For example, the filer pays a Class III fee but submits, and the Commission reviews, Period I cost-of-service data ordinarily associated with a Class IV fee.

[16] 31 U.S.C. 9701 (1988).

[17] 42 U.S.C. 7871(a)(1) (1988). The Commission established annual charges in Order No. 472, 52 FR 21,263 (1987), III FERC Statutes and Regulations ¶ 30,746 (1987). All costs recovered through filing fees under the IOAA are subtracted from the costs that are otherwise to be collected by means of these annual charges.

rule, 18 CFR 381.502: (g) *Filing of Supplemental Information.* For purposes of this section, and notwithstanding any other subsection, if a rate schedule filing is accompanied by the applicant's submission to the Commission of more extensive cost-of-service information than is required by § 35.13 of this chapter, that filing shall be assessed a fee on the basis of the cost-of-service information that is actually submitted.

However, recognizing that the answer to this question previously may not have been clear—given the rate schedule filing referred to above—the Commission makes this provision effective one day after the issuance of this order clarifying the regulations.

B. Public Systems

Initially, Public Systems' November 9, 1990 pleading raises a procedural issue. Public Systems states that, although the final rule addresses several of its concerns, the Commission did not address all of the matters that are at issue in Docket Nos. RM87–26–002, RM87–26–003 and RM90–5–001, currently pending before the Commission. Public Systems asks the Commission to treat its November 9, 1990 pleading as a request for reconsideration if Public Systems' positions in each of those pending dockets is "fully preserved." In the event that the Commission determines that Public Systems' objections in the pending dockets are not fully preserved, Public Systems asks the Commission to treat its pleading as a request for rehearing.

As noted above and in the final rule, the Commission will resolve in a subsequent order or orders the remanded proceedings and all requests for rehearing (formerly appeals of staff action) related to filing fees that were pending as of the issuance of the final rule.[18] Thus, as requested, the Commission will treat Public Systems' November 9, 1990 pleading as a request for reconsideration.

On reconsideration, Public Systems asks the Commission to reduce or eliminate the filing fee when: (1) The fee will be borne by a small customer; (2) service is provided by more than one company which is a unit of an integrated holding company; (3) the filing adds a new customer to an existing rate schedule; and (4) the filing reflects economy or coordination transactions.[19] As noted above, Public Systems also suggests that the Commission impose a cap on filing fees of two percent of anticipated revenues from the transaction.

The Commission's filing fees must comply with the standard set forth in the IOAA.[20] The crux of the matter is that, although Public Systems has not claimed that the final rule violates the IOAA in any respect, Public Systems maintains that the public interest would be better served by the modifications it seeks to the final rule.

In establishing filing fees, the Commission must strike a balance among competing interests. Public Systems does not object to compensatory filing fee schedules. Nevertheless, all of the changes in the final rule advocated by Public Systems are likely to result in filing fees that are below compensatory levels. To the extent that filing fees are established below compensatory levels, the resulting shortfall must be recovered through annual charges. In repeating the arguments advanced in its comments on the proposed rule, Public Systems has not asserted any new fact or argument to persuade the Commission to adopt more fee categories that substantially undercompensate the Commission for review of rate schedule filings.[21]

In light of Public Systems' failure to advance new facts or arguments, it is unnecessary to examine each of Public Systems' substantive suggestions in detail. Nevertheless, those suggestions will be addressed briefly below. Public Systems first seeks a reduction in filing fees when such filing fees are ultimately borne by customers of the utility making the rate filing rather than by the filing utility. Public Systems urges the Commission to "look to the entity paying the filing fee, rather than the entity making the filing" to set the fee.

Although Public Systems does not "challenge, or invite the Commission to challenge, certain utilities' practice of compelling their customers to bear certain filing fees," [22] it is clear that Public Systems wants the Commission to relieve smaller utilities of the obligation to pay filing fees in most instances. This desire is also the basis for Public Systems' requests to: (a) Eliminate fees for multiple filings resulting from agreements with different units of a holding company; (b) eliminate or reduce filing fees when a new customer is added to an existing rate schedule; and (c) eliminate or reduce fees for economy or coordination transactions. Public Systems' argument is essentially that the Commission's filing fees are being passed on to small utilities and, as a result, are harming the competitive position of such small utilities or dissuading them from engaging in beneficial transactions.

Public Systems' arguments are not persuasive. First, fees are a regulatory expense that are ultimately passed along to the consumers of utility service. Insofar as any utility must pay a fee that is otherwise imposed upon a filing utility, it will, in turn, pass that fee on to its customers, either directly or indirectly. Second, because of the relationship between filing fees and annual charges, Public Systems' proposal would result in a reallocation of costs among all of the Commission's jurisdictional entities, increasing annual charges to all such entities, including the smaller utilities that Public Systems presumably seeks to benefit. In light of these considerations, the Commission determined that the overall public interest was best served by rejecting Public Systems' request. Third, if small utilities believe that larger utilities' requirements for multiple rate schedule filings are anticompetitive or unduly discriminatory, as alleged by Public Systems, a complaint under section 206 of the Federal Power Act can be filed. Fourth, as noted above, if the Commission were to modify the rule as requested by Public Systems, it is reasonable to expect that the Commission's income from fees would decline substantially, and, perforce, its assessments for annual charges would increase. This result would likely harm smaller utilities more than larger ones. For these reasons, the Commission declines to modify the final rule in the manner suggested by Public Systems.

IV. Effective Date

Generally, a rule becomes effective not less than 30 days after publication in the **Federal Register**. A rule may become effective sooner if it is an interpretive rule, a statement of policy, or if the agency finds good cause to make it effective sooner.

[18] *See* III FERC Statutes and Regulations ¶ 30,900 at 31,830 (1990). The Commission will also address in a subsequent order Public Systems' request for refunds which may arise from the pending proceedings.

[19] Public Systems made these same requests in its comments on the proposed rule.

[20] 31 U.S.C. 483(a) (1988). The principal administrative interpretation of the IOAA is the Office of Management and Budget's Circular A–25, first issued September 23, 1959. *See also* III FERC Statutes and Regulations ¶ 30,900 at 31,822 (1990) (explaining the IOAA standard).

[21] III FERC Statutes and Regulations at 31,825–26. Public Systems overlooks the substantial reductions in fees already adopted by the Commission in the final rule. The Commission adopted categorical reductions in fees of 60 percent to relieve utilities other than major utilities (small entities) of the full burden of bearing the Commission's costs of filings for which such small entities would otherwise have to pay a cost-based fee. *Id.* at 31,825. Public Systems also overlooks the fact that the Commission's fee for all filings supported by Period II cost-of-service information is also based on significantly less than full cost recovery.

As noted above, the revisions to the final rule set forth in the body of this order clarify the rule with respect to the fee to be paid when the filer is submitting more extensive cost-of-service information in support of a filing than may otherwise be required by the Commission's regulations. Having identified uncertainty concerning the application of the final rule that could result in undercollection of fees, the Commission finds good cause to make the amendment to the final rule set forth herein effective as of one day after the date of issuance of this order.

V. Conclusion

For the reasons discussed in the body of this order, the Commission denies Public Systems' request for reconsideration. To clarify the intent of the final rule, § 381.502 of the Commission's regulations, 18 CFR 391.502 (1990), is hereby amended as set forth in the body of this order, to take effect as of one day after the date of issuance of this order.

List of Subjects in 18 CFR Part 381

Reporting and recordkeeping requirements, Utilities.

In consideration of the foregoing, the Commission amends part 381, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 381—FEES

1. The authority citation for part 381 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; 31 U.S.C. 9701; 15 U.S.C. 717–717w; 16 U.S.C. 791–828c; 16 U.S.C. 2601–2645; 49 U.S.C. 1–27; Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509, title III, subtitle E, sec. 3401.

2. In § 381.502, paragraph (g) is added, to read as follows:

§ 381.502 Rate Schedule Filings under sections 205 and 206 of the Federal Power Act.

* * * * *

(g) *Filing of Supplemental Information.* For purposes of this section, and notwithstanding any other subsection, if a rate schedule filing is accompanied by the applicant's submission to the Commission of more extensive cost-of-service information than is required by § 35.13 of this chapter, that filing shall be assessed a fee on the basis of the cost-of-service information that is actually submitted.

[FR Doc. 91–1861 Filed 1–25–91; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Research With Respect to Acquired Immunodeficiency Syndrome (AIDS) of the Public Health Service Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority by adding a new authority delegated by the Assistant Secretary for Health to the Commissioner of Food and Drugs. The authority being added is under Title XXIII (Research with Respect to Acquired Immunodeficiency Syndrome (AIDS)) of the Public Health Service Act (42 U.S.C. 300cc *et seq.*) as amended.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: In a memorandum dated January 27, 1989, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health authorities vested in the Secretary under title XXIII of the Public Health Service Act (the PHS Act) (42 U.S.C. 300cc *et seq.)* as amended. The delegation excludes the authority to promulgate regulations, submit reports to the Congress, establish advisory committees or national commissions, and appoint members to such committees or commissions. In a subsequent memorandum, dated September 7, 1990, the Assistant Secretary for Health redelegated to the Commissioner of Food and Drugs the following authorities delegated to the Assistant Secretary of Health under title XXIII of the PHS Act (42 U.S.C. 300cc–12(a)(1) and (2)(B), (b), and (c), 300cc–14(c), and 300cc–17 (d) and (e)), as amended. These authorities pertain to the following functions assigned to FDA: section 2312(a)(1) and (2)(B), (b), and (c) of the PHS Act relating to encouraging submission of investigational new drug applications for AIDS with respect to clinical trials and treatment use for new drugs with preliminary evidence of effectiveness in humans and to provide technical assistance for applications for treatment use; section 2314(c) of the PHS Act relating to the development of appropriate scientific and ethical guidelines for the evaluation of non-FDA approved drugs for treatment use; and section 2317 (d) and (e) of the PHS Act relating to the establishment of a data bank to provide information on clinical trials and treatments for drugs used to treat AIDS. FDA has concurrent authority under section 2314(c) of the PHS Act, with the National Institutes of Health (NIH) designated as the lead agency. FDA and NIH have concurrent authority under section 2317 (d) and (e) of the PHS Act, in accordance with the policies established by the Assistant Secretary for Health regarding coordination and integration of HIV-related information.

FDA is amending § 5.10 *Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials* (21 CFR 5.10) by adding a new paragraph (a)(32) to incorporate these new authorities delegated to the Commissioner of Food and Drugs.

The authorities may be redelegated. Authority delegated to a position by title may be exercised by a person officially designated to serve in such a position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.10 is amended by adding a new paragraph (a)(32) to read as follows:

§ 5.10 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials.

(a) * * *

(32) Functions vested in the Secretary under sections 2312(a)(1) and (2)(B), (b), and (c) (Use of Investigational New Drugs with Respect to Acquired Immunodeficiency Syndrome); 2314(c) (Scientific and Ethical Guidelines for Certain Treatments); and 2317 (d) and (e) (Information Services) of Title XXIII of the Public Health Service Act (42 U.S.C. 300cc-12(a)(1) and (2)(B), (b) and (c), 300cc-14(c) and 300cc-17 (d) and (e), as amended, insofar as these authorities pertain to the functions assigned to the Food and Drug Administration. The delegation excludes the authority to promulgate regulations, submit reports to the Congress, establish advisory committees or national commissions, and appoint members to such committees or commissions.

* * * * *

Dated: January 18, 1991.

Gary J. Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-1898 Filed 1-25-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8332]

RIN 1545-AN96

Certificates of Compliance With Income Tax Laws by Departing Aliens

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary Income Tax Regulations that exempt certain alien students, industrial trainees, and exchange visitors from the requirement of obtaining a certificate of compliance with income tax laws before departing the United States. This action is necessary because of changes to the applicable tax law made by the Technical and Miscellaneous Revenue Act of 1988. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

EFFECTIVE DATE: These regulations are effective for departures after January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas L. Ralph of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:INTL:Br6 (202-377-9059, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary Income Tax Regulations (26 CFR part 1) under section 6851 of the Internal Revenue Code of 1986. These regulations implement section 1001(d)(2) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, 102 Stat. 3342.

Need for Temporary Regulations

The proper application of section 6851(d) is dependent upon an authoritative description of those aliens allowed to depart the United States without a certificate of compliance with U.S. income tax laws. These regulations are necessary to provide taxpayers and Service personnel with this guidance immediately. Therefore, good cause is found to dispense with the notice and public procedure requirements of 5 U.S.C. 553(b) and the delayed effective date requirement of 5 U.S.C. 553(d).

Explanation of Provisions

The provisions exempt certain alien students, industrial trainees, and exchange visitors, and their spouses and children, from the requirement of obtaining a certificate of compliance with the U.S. income tax laws before they depart the United States. Aliens exempt from the requirement are those admitted to the United States on an F, H-3, H-4, or J visa who have received no gross income from U.S. sources other than that received (1) as allowances to cover expenses incident to study in the United States, (2) for services or accommodations furnished incident to that study, or (3) in accordance with the employment authorizations in 8 CFR 274a.12 that apply to the alien's visa. Furthermore, aliens admitted on an M-1 visa who have received no gross income other than that derived in accordance with the employment authorization in 8 CFR 274a.12(c)(6) are also exempt from the requirement.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these regulations is Thomas L. Ralph of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects in 26 CFR 1.6851-1 through 1.6851-3

Income taxes, Administration and procedure, Termination assessments.

Adoption of amendments to the regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Sec. 1.6851-2T also issued under 26 U.S.C. 6851(d). * * *

Par. 2. § 1.6851-2 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 1.6851-2 Certificates of compliance with income tax laws by departing aliens.

(a) *In general.* * * *

(2) *Exceptions.* * * *

(ii) [Reserve] For guidance see § 1.6851-2T(a)(2)(ii).

* * * * *

Par. 3. A new § 1.6851-2T is added in the appropriate place to read as follows:

§ 1.6851-2T Certificates of compliance with income tax laws by departing aliens (Temporary).

(a)(1) [Reserved]

(2)(i) [Reserved]

(ii) *Alien students, industrial trainees, and exchange visitors.* A certificate of compliance shall not be required, and examination as to United States income tax liability shall not be made, upon the departure from the United States or any of its possessions of—

(A) An alien student, industrial trainee, or exchange visitor, and any spouse and children of that alien, admitted solely on an F-1, F-2, H-3 H-

4, J–1 or J–2 visa, who has received no gross income from sources inside the United States while present in the United States under that visa, other than—

(*1*) Allowances to cover expenses incident to study in the United States (including expenses for travel, maintenance, and tuition),

(*2*) The value of any services or accommodations furnished incident to such study, or

(*3*) Income derived in accordance with the employment authorizations is 8 CFR 274a.12 that apply to the alien's visa; or

(B) An alien student, and any spouse or children of that alien admitted solely on an M–1 or M–2 visa, who has received no gross income from sources inside the United States while present in the United States under that visa, other than income derived in accordance with the employment authorization in 8 CFR 274a.12(c)(6).

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Dated: January 2, 1991.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 91–1831 Filed 1–25–91; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD–05–91–002]

Security Zone Regulations; Chesapeake Bay, Norfolk Harbor Reach, Port of Hampton Roads, VA (COTP Hampton Roads, Reg.)

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone around the waterside and piers at the Norfolk Naval Base, Norfolk, Virginia. This zone is needed to safeguard materials and persons in the vicinity of the Norfolk Naval Base from sabotage or other subversive acts, accidents, or other causes of a similar nature due to the increased threat of terrorism resulting from the current hostilities in the Middle East. The security zone will extend westwardly from a point on the shore near the Destroyer Submarine Piers at latitude 36–56.02 N., longitude 76–19.76 W. to a point at latitude 36–56.0 N., longitude 76–20.18 W.; thence northerly along the buoy line marking the eastern side of Norfolk Harbor Reach to a point at latitude 36–58.04 N., longitude 76–20.02 W.; thence easterly to a point inside Willoughby Bay at latitude 36–58.04 N., longitude 76–18.78 W.; thence to a point at latitude 36–57.51 N., longitude 76–18.72 W.; thence to a point at latitude 36–57.55 N., longitude 76–17.84 W.; thence to a point at latitude 36–57.17 N., longitude 76–17.8 W.; thence to a point at latitude 36–57.16 N., longitude 76–17.38 W.; thence to a point at latitude 36–57.43 N., longitude 76–16.47 W.; and reaching the shore line at a point at latitude 36–57.33 N., longitude 76–16.35 W. Individuals or vessels other than naval craft will not be allowed to enter the security zone except as permitted by the Captain of the Port, Hampton Roads, Virginia or his designated representative.

EFFECTIVE DATE: This regulation is effective commencing at 8 a.m., January 18, 1991 and terminates at 8 a.m., March 31, 1991, unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia.

FOR FURTHER INFORMATION CONTACT: LTJG W.J.P. Westphal II, Project Officer, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Street, Norfolk, Virginia 23510–1888. Tel: (804) 441–3294, (FTS) 827–3294.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss or injury to resources involved in the military operations taking place in the vicinity of the Norfolk Naval Base.

Drafting Information

The drafter of this regulation is LTJG W.J.P. Westphal II, Project Officer for the Captain of the Port, Hampton Roads, Virginia.

Discussion of Regulation

A security zone is being established around the piers and waterside of the Norfolk Naval Base, Norfolk, Virginia from 8 a.m., January 18, 1991 and terminates at 8 a.m., March 31, 1991, unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia. This zone is needed to safeguard materials and persons in the vicinity of the Norfolk Naval Base from sabotage or other subversive acts, accidents, or other causes of a similar nature due to the increased threat of terrorism resulting from the current hostilities in the Middle East. The security zone will encompass the waters of Norfolk Harbor Reach and Willoughby Bay within 300 yards of the piers or shore line of the Norfolk Naval Base, Norfolk, Virginia. The security zone will extend westwardly from a point on the shore near the Destroyer Submarine Piers at latitude 36–56.02 N., longitude 76–19.76 W. to a point at latitude 36–56.0 N., longitude 76–20.18 W.; thence northerly along the buoy line marking the eastern side of Norfolk Harbor Reach to a point at latitude 36–58.04 N., longitude 76–20.02 W.; thence easterly to a point inside Willoughby Bay at latitude 36–58.04 N., longitude 76–18.78 W.; thence to a point at latitude 36–57.51 N., longitude 76–18.72 W.; thence to point at latitude 36–57.55 N., longitude 76–17.84 W.; thence to a point at latitude 36–57.17 N., longitude 76–17.8 W.; thence to a point at latitude 36–57.16 N., longitude 76–17.38 W.; thence to a point at latitude 36–57.43 N., longitude 76–16.47 W.; and reaching the shore line at a point at latitude 36–57.33 N., longitude 76–16.35 W. The security zone is effective from 8 a.m., January 18, 1991 until 8 a.m., March 31, 1991, unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia. Coast Guard and Navy vessels may be on scene while the security zone is in effect. Commercial and recreational boats will not be permitted to enter the security zone, except as permitted by the Captain of the Port.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 reads as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. In part 165, a new section is added, to read as follows:

§ 165.T0502 Security Zone: Chesapeake Bay, Norfolk Harbor Reach, Port of Hampton Roads, Virginia.

(a) *Location.* The following area is a security zone: The waters of Norfolk Harbor Reach and Willoughby Bay within 300 yards of the piers and shore line of the Norfolk Naval Base, Norfolk, Virginia. The security zone extends westwardly from a point on the shore

near the Destroyer Submarine Piers at latitude 36–56.02 N., longitude 76–19.76 W. to a point at latitude 36–56.0 N., longitude 76–20.18 W.; thence northerly along the buoy line marking the eastern side of Norfolk Harbor Reach to a point at latitude 36–58.04 N., longitude 76–20.02 W.; thence easterly to a point inside Willoughby Bay at latitude 36–58.04 N., longitude 76–18.78 W.; thence to a point at latitude 36–57.51 N., longitude 76–18.72 W.; thence to point at latitude 36–57.55 N., longitude 76–17.84 W.; thence to a point at latitude 36–57.17 N., longitude 76–17.8 W.; thence to a point at latitude 36–57.16 N., longitude 76–17.38 W.; thence to a point at latitude 36–57.43 N., longitude 76–16.47 W.; and reaching the shore line at a point at latitude 36–57.33 N., longitude 76–16.35 W.

(b) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf. The following officers have or will be designated by the Captain of the Port: The senior Coast Guard boarding officer on each vessel enforcing the security zone, and the Duty Officer at the Marine Safety Office, Norfolk, Virginia.

(1) The Captain of the Port, Hampton Roads and the Duty Officer at the Marine Safety Office, Norfolk, Virginia can be contacted at telephone number (804) 441–3307.

(2) The senior boarding officer on each vessel enforcing the security zone can be contacted on VHF–FM channel 13 and 16.

(c) *Regulation.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia.

(2) The U.S. Coast Guard may be assisted in the enforcement of this zone by the U.S. Navy.

(3) The operator of any vessel in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by any Coast Guard commissioned, warrant or petty officer on board a vessel either displaying a Coast Guard Ensign or under the command of the U.S. Navy.

(ii) Proceed as directed by any Coast Guard commissioned, warrant or petty officer on board a vessel either displaying a Coast Guard Ensign or under the command of the U.S. Navy.

(d) *Effective date.* This regulation is effective from 8 a.m., on January 18, 1991 and terminates at 8 a.m., March 31, 1991, unless sooner terminated by the Captain of the Port, Hampton Roads, Virginia.

Dated: January 22, 1991.

G.J.E. Thornton,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 91–1967 Filed 1–25–91; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Wilmington CGD 05–91–001]

Security Zone Regulations; Cape Fear River, Military Ocean Terminal Sunny Point, Brunswick County, NC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the Cape Fear River in the vicinity of Military Ocean Terminal Sunny Point (MOTSU) consisting of the Cape Fear River from an east-west line drawn through the Cape Fear River Channel Lighted Bouy (32 LLNR 28520) (34°02'03" N, 77°56'03" W) to an east-west line drawn through the Cape Fear River Channel Lighted Bouy 19 (LLNR 28345) 33°56'08" N, 77°58'15" W) and 1000 yards to west side of, and 2000 yards to the east side of, the Upper Midnight Channel Range, Reaves Pt. Channel Range, and Snow's Marsh Channel Range. This security zone is established at the request of the United States Army and Navy and is needed to safeguard vessels and property at MOTSU, and other government property essential to the national security from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, Wilmington, North Carolina.

EFFECTIVE DATE: This regulation becomes effective at 7:00 p.m. January 17, 1991 and it terminates upon publication of a notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: LCDR P.A. Richardson, USCG, c/o U.S. Coast Guard Captain of the Port, 272 North Front Street, Suite 500, Wilmington, NC 28401–3907; telephone (919) 343–4881.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) as not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to prevent damage to vessels at MOTSU, government property, or delay to defense operations, essential to the national security.

Drafting information

The drafters of this regulation are LCDR P. A. RICHARDSON, project officer for the Captain of the Port, and CAPT M. K. CAIN, project attorney, Fifth Coast Guard District Legal Office.

Discussion of the Regulation

The events requiring this regulation will begin at 17 January 1991. These operations are essential to the national security of the United States, and damage to vessels or equipment involved or delay to the operation would seriously damage the security and interests of the United States.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation: In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. In part 165, a new § 165.T001 is added, to read as follows:

§ 165.T001 Security Zone: Cape Fear River in Vicinity of Military Ocean Terminal, Sunny Point (MOTSU).

(a) *Location.* The following area is a security zone: The Cape Fear River in the vicinity of Military Ocean Terminal Sunny Point (MOTSU) consisting of the Cape Fear River from an east-west line drawn through the Cape Fear River Channel Lighted Bouy 32 (LLNR 28520) (34°02'03" N 77°56'03" W) to an east-west line drawn through the Cape Fear River Channel Lighted Bouy 19 (LLNR 28345) (33°56'08" N 77°58'15" W), and 1000 yards to west side of, and 2000 yards to the east side of, the Upper Midnight Channel Range, Reaves Pt. Channel Range, and Snow's Marsh Channel Range.

(b) *Effective date.* This regulation is effective at 7:00 p.m. January 17, 1991

and terminates upon publication of a notice in the **Federal Register**.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Wilmington, NC.

(2) Persons or vessels requiring entry into or passage through the security zone may request authorization from the Captain of the Port or his designated representative by telephone at (919) 343–4881 or by coming alongside a Coast Guard vessel patrolling within the security zone.

(3) All vessels entering the security zone may be boarded and examined by the Coast Guard under existing regulations, prior to entry, to ensure compliance with safety and navigation regulations, and to ensure compliance with the general regulations in § 165.33.

(4) Public notice of this regulation will be made by issuing periodic Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the existence of the security zone.

(5) Section 165.33 also contains other general requirements.

(d) *Effective date.* This regulation is effective on 7:00 p.m. January 17, 1991. It terminates on the completion of Operation DESERT STORM or unless sooner terminated by the Captain of the Port.

Dated: January 17, 1991.

P.J. Pluta,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.

[FR Doc. 91–1968 Filed 1–25–91; 8:45 am]

BILLING CODE 4910–14–M

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls; Incentive Tolls Program

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority proposed, and the Corporation agreed to an incentive tolls program for the purpose of attracting new business to the Seaway under a three month pilot. The incentive tolls apply to downbound cargoes the types of which have not moved downbound through any Seaway lock in the three navigation seasons prior to 1990 (1987, 1988, and 1989) or have so moved, but in quantities representing less than 5% of the average Seaway traffic to a destination over those same three seasons. Under this program, shippers qualify for a 50% reduction of the cargo toll if the cargo had moved downbound in quantities of 1,000 metric tons or more per ship between July 1, 1990, and September 30, 1990. It applied to both the Montreal-Lake Ontario and Welland Canal sections of the Seaway. This program could not result in actual reduction of tolls for eligible cargoes until it was formally approved by both the Canadian and the United States government through an exchange of diplomatic notes, which occurred on January 18, 1990. With that exchange and this final rule, refunds now may be made to those entitled to receive them.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: The St. Lawrence Seaway Tariff of Tolls is amended by adding a § 402.9 to title 33 CFR, to provide that the portion of the composite toll related to charges per metric ton of cargo charged on new downbound business has been reduced by a fifty percent refund for the period beginning July 1, 1990, and ending September 30, 1990. It is further provided that, to be eligible, a vessel must have: paid the full toll before a refund is made; have entered Seaway lock after leaving the port of origin in a downbound direction after 00:01 hour July 1, 1990, and have left the Seaway before arriving at the port of destination by 23:59 hours September 30, 1990; carried, for each consignee, 1,000 metric tons or more of new downbound business; and submitted an application for refund to the Authority or Corporation for audit by either. The amendment further provides that "new downbound business" means downbound cargo that had not moved through the Seaway during the 1987, 1988, and 1989 navigation seasons or had moved through a Seaway lock in quantities representing less than five percent of the average of Seaway traffic to the particular destination during all those three seasons. No comments were received in response to the July 31, 1990, Notice of Proposed Rulemaking. An exchange of diplomatic notes between Canada and the United States approving this amendment occurred on January 18, 1991.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This final rule does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation amends Part 402—Tariff of Tolls (33 CFR part 402) as follows:

PART 402—[AMENDED]

1. The authority citation for 33 CFR part 402 is revised to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981–990.

2. A new section 402.9 is added to read as follows:

§ 402.9 Incentive tolls.

(a) Notwithstanding anything contained in this Tariff, the portion of the composite toll related to charges per metric ton of cargo charged on new downbound business shall be reduced by a fifty percent refund for the period beginning July 1, 1990 and ending September 30, 1990.

(b) The refund mentioned in paragraph (a) of this section shall be granted after payment of the full toll specified in the Schedule under the tariff if:

(1) A vessel enters a Seaway lock after leaving the port of origin in a downbound direction after 00:01 hour July 1, 1990 and leaves the Seaway prior to arriving at the port of destination by 23:59 hours September 30, 1990;

(2) A vessel described in paragraph (b)(1) of this section carries, for each consignee, 1,000 metric tons or more of new downbound business; and

(3) An application for a new downbound business refund is submitted to the Authority or the

Corporation for audit by the Authority or the Corporation.

(c) For the purposes of this section, "new downbound business" means:

(1) Downbound cargo that has not moved through a Seaway lock during the navigation seasons of 1987, 1988 and 1989; or

(2) Downbound cargo that has moved through a Seaway lock in quantities representing less than five percent of the average of Seaway traffic to the particular destination during the navigation seasons of 1987, 1988 and 1989.

(d) Information concerning the navigation seasons of 1987, 1988 and 1989 can be obtained by contracting the Chief of Tolls and Statistics, The St. Lawrence Seaway Authority, 202 Pitt Street, Cornwell, Ontario, K6J 3P7, telephone: (613) 932-5170.

Issued at Washington, DC on January 22, 1991.

James L. Emery,

Acting Administrator, Saint Lawrence Seaway Development Corporation.

[FR Doc. 91-1896 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6826

[G-940-G-1-0405-4214-10; NMNM 55234]

Modification of Public Land Order No. 6503; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies Public Land Order No. 6403 (published in the **Federal Register** of July 6, 1983, at pages 31038 and 31039) for the Waste Isolation Pilot Plant (WIPP) project to (1) expand the stated purpose of the order to include conducting the test phase of the project using retrievable, transuranic radioactive nuclear waste at the site; (2) increase the Department of Energy's (DOE's) exclusive use area (the reserved area) from 640 acres to 1,453.9 acres; (3) extend the term of the withdrawal through June 29, 1997 (the term of the existing withdrawal is 8 years and is for construction of facilities), so as to provide sufficient time to conduct the experimental test phase; and (4) delete paragraph 5 of Public Land Order No. 6403 which prohibits the use of the land for the transportation, storage, or burial of radioactive materials. The land has been and will remain closed to surface entry and mining, but has been and will remain open to mineral leasing.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6071.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 6403 is hereby modified to: (1) Expand the stated purpose of the order to include conducting the test phase of the project using retrievable, transuranic radioactive nuclear waste at the site; (2) increase the DOE's exclusive use area (the reserved area) from 640 acres to 1,453.90 acres; (3) extend the term of the withdrawal through June 29, 1997, so as to provide sufficient time to conduct the experimental test phase of the WIPP project, unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the FLPMA of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended; and (4) delete paragraph 5 of Public Land Order No. 6403 which prohibits the use of the land for the transportation, storage, or burial of radioactive materials. *Provided that* no transuranic or other forms of radioactive waste will be transported to or emplaced at the WIPP site until such time as the DOE has obtained all required permits and provided copies to the Department of the Interior, Bureau of Land Management (BLM), or certifies that all environmental permitting requirements have been met, and the BLM issues a Notice to Proceed to be published in the **Federal Register**. These requirements include: (1) The Environmental Protection Agency's (EPA's) No Migration Variance; (2) the notice to the EPA for compliance with the National Emission Standards for Hazardous Air Pollutants; and (3) Part A of the Resource Conservation and Recovery Act permit application. *Further provided that* the amount of radioactive transuranic waste emplaced at the site does not exceed the amount that can feasibly be removed should the site not be selected as a permanent repository. The land is described as follows:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,
- Sec. 15;
- Sec. 16;
- Sec. 17;
- Sec. 18, lots 1 to 4, inclusive, E½, and E½ W½
- Sec. 19, lots 1 to 4, inclusive, E½, and E½ W½
- Sec. 20;
- Sec. 21;
- Sec. 22;
- Sec. 27;
- Sec. 28;
- Sec. 29;
- Sec. 30, lots 1 to 4, inclusive, E½, and E½ W½
- Sec. 31, lots 1 to 4, inclusive, E½, and E½ W½
- Sec. 32;
- Sec. 33;
- Sec. 34.

The area described contains 10,240 acres in Eddy County.

2. Subject to valid existing rights, the following described land is hereby reserved for the exclusive use by the DOE for the purpose of the test phase of the WIPP project:

A tract of land in Eddy County, New Mexico, being part of sec. 20, 21, 28, and 29, T. 22 S., R. 31 E., NMPM, and being more particularly described as follows, to wit:

Beginning at a point on the North line of said sec. 20 which is S. 89°57' E., a distance of 1,378.68 ft. from the Northwest corner of said sec. 20;

Thence S. 89°57' E., a distance of 3,900.00 ft. to the corner common to sec. 16, 17, 20, and 21;

Thence N. 89°51" E., a distance of 3,160.66 ft. to a point from which the corner common to sec. 15, 16, 21, and 22 bears N. 89°51' E., a distance of 2,120.00 ft.;

Thence S. 00°01'16" E., a distance of 5,279.97 ft. to a point on the line between sec. 21 and 28 from which the corner common to sec. 21, 22, 27, and 28 bears N. 89°56' E., a distance of 2,118.71 ft. and the corner common to sec. 20, 21, 28, and 29 bears S. 89°56' W., a distance of 3,160.63 ft.;

Thence continuing S. 00°01'16" E., a distance of 3,697.74 ft. to a point from which the corner common to sec. 27, 28, 33, and 34 bears South 1,580.00 ft. and East, 2,120.00 ft.;

Thence N. 89°59'27" W., a distance of 3,159.63 ft. to a point on the line between sec. 28 and 29 from which the corner common to sec. 20, 21, 28, and 29 bears N. 00°02'35" W., a distance of 3,693.55 ft. and the corner common to sec. 28, 29, 32, and 33 bears S. 00°02'35" E., a distance of 1,580.51.;

Thence continuing N. 89°59'27" W., a distance of 3,897.93 ft. to a point from which the corner common to sec. 29, 30, 31, and 32 bears S. 00°01' W., 1,580.00 ft. and N. 89°59' W., 1,379.34 ft.;

Thence N. 00°02'35" W., a distance of 3,696.32 ft. to a point on the line between sec. 20 and 29 from which the corner common to sec. 20, 21, 28, and bears S. 89°57' E., a distance of 3,898.21 ft. and the corner common to sec. 19, 20, 29, and 30 bears N. 89°57' W., a distance of 1,381.13 ft.;

Thence continuing N. 00°02'27" W., a distance of 5,275.39 ft. to the point of beginning.

The area described contains approximately 1,453.90 acres in Eddy County.

3. The land included in this order, with the exception of the land described in paragraph 2, is managed by the BLM in accordance with a Memorandum of Understanding approved by the Secretary concurrently with the signing of this order.

January 22, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1844 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-FB-M

43 CFR Public Land Order 6831

[MT-930-4214-10; MTM 41179]

Partial Revocation of Executive Order Dated October 19, 1917; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order insofar as it affects 260 acres of National Forest System land withdrawn for Phosphate Reserve No. 30, Montana No. 7. The land is no longer needed for that purpose. The revocation is needed to permit disposal of the land through exchange. This action will open the land to surface entry and nonmetalliferous mining, subject to other segregations of record. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: February 27, 1991.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order dated October 19, 1917, is hereby revoked insofar as it affects the following described land:

Principal Meridian, Montana

Gallatin National Forest

T. 8 S., R. 4 E.,
Sec. 34, S½SE¼NW¼, W½W½, E½ SW¼.

The area described contains 260 acres in Gallatin County.

At 9:00 a.m. on February 27, 1991, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, including location and entry for nonmetalliferous minerals under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Appropriation of land described in this order under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

January 22, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1846 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-DN-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-448; RM-7427]

Radio Broadcasting Services; Nome, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 241A to Nome, Alaska, as that community's second local FM broadcast service, in response to a petition for rule making filed on behalf of the Catholic Bishop of Northern Alaska. See 55 FR 42862, October 24, 1990, Coordinates used for Channel 241A at Nome are 64-30-00 and 165-25-00. With this action, the proceeding is terminated.

DATES: Effective March 11, 1991; the window period for filing applications on Channel 241A at Nome, Alaska, will open on March 12, 1991, and close on April 11, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-448, adopted January 14, 1991, and released January 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857-3800, 2100 M Street, NW., suite 140 Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by adding Channel 241A at Nome.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-1951 Filed 1-25-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-451; RM-6628]

Radio Broadcasting Services; Keokuk and Washington, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of W. Russell Withers, Jr., substitutes Channel 237C1 for Channel 237A at Keokuk, Iowa, and modifies the license of Station KOKX-FM to specify operation on the higher powered channel. To accommodate the Keokuk substitution, the Commission substitutes Channel 291A for Channel 237A at Washington, Iowa, and modifies the license of Station KCII(FM) to specify operation on the alternate Class A frequency. In addition, unoccupied and unapplied-for Channel 290C2 is deleted from Keokuk. See 54 FR 43608 (Oct. 20, 1989). Channel 237C1 can be allotted to Keokuk in compliance with the Commission's minimum distance separation requirements and can be used at the licensed transmitter site of Station KOKX-FM, at coordinates North Latitude 40-24-38 and West Longitude 91-25-57. Channel 291A can be allotted to Washington in compliance with the Commission's minimum distance separation requirements and can be used at the licensed transmitter site of Station KCII(FM), at coordinates 41-18-18 and 91-42-36. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 8, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–451, adopted January 9, 1991, and released January 22, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channels 237A and 290C2 and adding Channel 237C1 at Keokuk, and by removing Channel 237A and adding Channel 291A at Washington.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1952 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–450; RM–7391]

Radio Broadcasting Services; Winterset, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of AFM Associates, substitutes Channel 258C3 for Channel 258A at Winterset, Iowa, and modifies the construction permit of Station KTDG(FM) to specify operation on the higher powered channel. See 55 FR 42862, October 24, 1990. Channel 258C3 can be allotted to Winterset in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.7 kilometers (8.5 miles) south of the community to avoid short-spacings to Station KFGQ–FM, Channel 257A, Boone, Iowa, and to the outstanding construction permit for Channel 258A at Eldora, Iowa. The coordinates for Channel 258C3 at Winterset are North Latitude 41–12–34 and West Longitude 94–02–09. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 8, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–450, adopted January 9, 1991, and released January 22, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 258A and adding Channel 258C3 at Winterset.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1953 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–454; RM–7436]

Radio Broadcasting Services; Clearwater, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 254A to Clearwater, Kansas, in response to a petition filed by Central K Communications. See 55 FR 43147, October 26, 1990. The coordinates for Channel 254A are 37–27–21 and 97–33–48, at a site 7.3 kilometers (4.5 miles) southwest of the community to avoid a short-spacing to Station KBUZ, Channel 256C1, El Dorado, Kansas.

DATES: Effective march 11, 1991; the window period for filing applications will open on March 12, 1991, and close on April 11, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–454, adopted January 10, 1991, and released January 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Channel 254A, Clearwater.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1954 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–439; RM–7324]

Radio Broadcasting Services; Cave City, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 279C3 for Channel 279A at Cave City, Kentucky, and modifies the license of Station WHHT(FM) to specify operation on the higher class channel, at the request of Newberry Broadcasting, Inc. See 55 FR 42030, October 17, 1990. Channel 279C3 can be allotted to Cave City in compliance with the Commission's minimum distance separation requirements with a site

restriction of 17.2 kilometers (10.7 miles) south of the community, in order to avoid a short-spacing to vacant Channel 280A at Drakesboro, Kentucky. The coordinates are North Latitude 36–59–39 and West Longitude 86–01–48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–439, adopted January 14, 1991, and released January 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 279A and adding Channel 279C3 at Cave City.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1955 Filed 1–25–91; 8:45 am]

BILLING CODE 6210–01–M

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47 CFR Part 73

[MM Docket No. 90–442; RM–7358]

Radio Broadcasting Services; Oakland, MD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 222A for Channel 221A at Oakland, Maryland, and modifies the license for Station WXIE(FM) to specify operation on the new channel, in response to a petition filed by Oakland Radio Station Corporation. See 55 FR 42740, October 23, 1990. The coordinates for Channel 222A are 39–26–41 and 79–31–42.

EFFECTIVE DATE: March 8, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–442, adopted January 9, 1991, and released January 22, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by removing Channel 221A and adding Channel 222A at Oakland.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1956 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–461; RM–7376]

Radio Broadcasting Services; Gardnerville-Minden, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Carson Valley Radio, Inc., substitutes Channel 256C3 for Channel 257A at Gardnerville-Minden, Nevada, and modifies the license of Station KGVM to specify operation on the higher powered channel. See 55 FR 45621, October 31, 1990. Channel 256C3 can be allotted to Gardnerville-Minden in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 256C3 at Gardnerville-Minden are North Latitude 38–56–24 and West Longitude 119–45–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–461, adopted January 10, 1991, and released January 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by removing Channel 257A and adding Channel 256C3 at Gardnerville-Minden, Nevada.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1958 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–459; RM–7386]

Radio Broadcasting Services; Clovis, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Alton Lloyd Finley, Jr., allots Channel 272C3 to Clovis, New Mexico, as the community's fifth local FM service. See 55 FR 43148, October 26, 1990. Channel 272C3 can be allotted to Clovis in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 272C3 at Clovis

are North Latitude 36–24–06 and West Longitude 103–12–18. With this action, this proceeding is terminated.

DATES: Effective March 8, 1991. The window period for filing applications will open on March 11, 1991, and close on April 10, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–459, adopted January 9, 1991, and released January 22, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by adding Channel 272C3 at Clovis.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1957 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–473; RM–7392]

Radio Broadcasting Services; Edenton and Scotland Neck, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Lawrence F. and Margaret A. Loesch, substitutes Channel 273C2 for Channel 272A at Edenton, North Carolina, and modifies their license for Station WZBO–FM to specify operation on the higher powered channel. In addition, the Commission substitutes Channel 238A for Channel 274A at Scotland Neck, North Carolina, and modifies the construction permit of Station WWRT to specify operation on the alternate Class A channel. See 55 FR 45231, November 2, 1990. Channel 273C2 can be allotted to Edenton in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.6 kilometers (11.6 miles) southeast to avoid a short-spacing to Station WHLQ, Channel 273A, Louisburg, North Carolina, and to accommodate petitioner's desired transmitter site. The coordinates for Channel 273C2 at Edenton are North Latitude 35–55–52 and West Longitude 76–31–34. Channel 238A can be allotted to Scotland Neck in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in Station WWRT's outstanding construction permit. The coordinates for Channel 238A at Scotland Neck are North Latitude 36–08–09 and West Longitude 77–26–09. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 11, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–473, adopted January 14, 1991, and released January 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 272A and adding Channel 273C2 at Edenton, and by removing Channel 274A and adding Channel 238A at Scotland Neck.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–1959 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 97

[PR Docket No. 90–100; FCC 91–7]

Relocation of the Novice and Technician Operator Class Frequency Segment Within the Amateur Service 80 Meter (m) Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action relocates the Novice and Technician Operator Class control operator frequency privileges in the Novice segment of the 80 m amateur service band from 3700–3750 kHz to 3675–3725 kHz. The rule changes are necessary because beginning radiotelegraphers need a relatively interference-free frequency segment. The effect of the rule changes is to reduce interference in the 80 m Novice segment so that it can be used by beginners to improve their telegraphy skills.

EFFECTIVE DATE: March 16, 1991.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted January 4, 1991, and released January 18, 1991. The complete text of this Commission action, including the rule amendments, is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street, NW., Washington, DC. The complete text of this Report and Order, including the rule amendments, may also be purchased from the Commission's copy contractor, Downtown Copy Center (DCC), (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Report and Order

1. The Amateur Service Rules have been amended to relocate Novice and Technician Operator Class control operator frequency privileges in the 80 m amateur service band from the 50 kHz segment at 3700–3750 kHz to the segment at 3675–3725 kHz. The Commission said that the rule changes would reduce the amount of mutual

interference in at least a part of the 80 m Novice segment caused by United States amateur stations transmitting telegraphy at the same time that Canadian amateur stations are transmitting telephony. The Commission also said that Novice and Technician operators would have more opportunities to improve their telegraphy skills in a setting where there was a minimum of interference.

2. The American Radio Relay League, Inc. suggested that the Novice segment be expanded by 25 kHz. The Commission declined to do so because Novice and Technician operators would have to share the entire expanded 80 m Novice segment with United States amateur stations using higher power, as well as with Canadian telephone stations. The Commission said that, given those circumstances, it was likely that there would be more, not less, interference in an expanded 80 m Novice segment.

3. The amended rules are set forth at the end of this document.

4. The action taken herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

5. The amended rules are issued under the authority of 47 U.S.C. 154(i) and 303 (c) and (r).

List of Subjects in 47 CFR Part 97

Frequencies, Interference, Radio.

Amended Rules

Part 97 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. The line entry for the 80 meter band in the table in § 97.301(e) is revised to read as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(e) * * *

Wavelength band	ITU region 1	ITU region 2	ITU region 3	Sharing requirements. See § 97.303, (paragraph)
HF	*MHz*	*MHz*	*MHz*	
80 m	3.675–3.725	3.675–3.725	3.675–3.725	(a)

* * * * *

3. Section 97.313(c)(1) is revised to read as follows:

§ 97.313 Transmitter power standards.

* * * * *

(c) * * *

(1) The 3.675–3.725 MHz, 7.10–7.15 MHz, 10.10–10.15 MHz, and 21.1–21.2 MHz segments;

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–1950 Filed 1–25–91; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 519

[APD 2800.12A, CHGE 21]

General Services Administration Acquisition Regulation; Subcontracting Program

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) (APD 2800.12A) chapter 5, is amended by adding paragraph (b)(4) to section 519.202–2 to indicate that Business Service Centers, where practical, will use the Small Business Administration's Procurement Automated Source System (PASS) to locate small business sources; to amend section 519.202–5 by revising paragraph (b) to update the reference to GSA Order ADM 2800.17A; to revise section 519.500 by clarifying the exception to the requirements for review of non-set-aside determinations for procurements made under the Small Business Competitiveness Demonstration Program; to amend section 519.704 by revising subparagraph (a)(3) to clarify the fact that goals in individual plans for contracts with options must establish separate goals for the basic contract and each option period; to amend section 519.705–4 by revising paragraph (c), by redesignating paragraph (d) as paragraph (f) and adding a new paragraph (d) to provide guidance on dealing with contracts with option provisions, and by adding paragraph (e) to incorporate material previously contained in GSA Acquisition Letter V–89–11; to amend section 519.705–5 by revising the text of the letters in paragraphs (c) and (d) to conform to the FAR as amended by Federal Acquisition Circular (FAC) 84–58; to amend section 519.706–70 by deleting paragraph (a) and revising paragraph (f) to delete the second sentence and substitute guidance regarding analyzing the contractor's explanation for not achieving goals, by deleting paragraph (g)(4) because information has been revised and relocated, redesignate all paragraphs, and by adding a new paragraph (g) to provide instructions for notifying the Office of Small and Disadvantaged Business Utilization (AU); to amend section 519.770–1 by revising paragraphs (ii) and (iii) in paragraph (b)(1) and paragraph (ii) in paragraph (b)(2) to conform to the FAR as amended by FAC 84–58; and to make editorial changes in sections 519.302 and 519.704(a)(2) and (a)(3).

EFFECTIVE DATE: February 4, 1991.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the **Federal Register** for public comment because it primarily provides internal operating procedures to GSA contracting personnel regarding subcontracting programs and implements the requirement in Federal Acquisition Circular (FAC) 84–58 for reporting subcontracting with women-owned small business concerns.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The rule

provides guidance to GSA contracting personnel and has no impact on the public.

C. Paperwork Reduction Act

The rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 519

Government procurement.

PART 519—[AMENDED]

1. The authority citation for 48 CFR part 519 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 519.202–2 is amended by adding paragraph (b)(4) to read as follows:

519.202–2 Locating small business sources.

* * * * *

(b) * * *

(4) Whenever practical, access the Small Business Administration's (SBA) Procurement Automated Source System (PASS) to locate small business sources.

* * * * *

3. Section 519.202–5 is amended to revise paragraph (b) to read as follows:

519.202–5 Data collection and reporting requirements.

* * * * *

(b) Each contracting office must submit the GSA Form 3077, FY 19_____, Procurement Preference Program Goal Achievement, to the SBTA quarterly in accordance with GSA Order, GSA Form 3077, FY 19_____ Procurement Preference Program Goal Achievement (ADM 2800.17A).

4. Section 519.302 is revised to read as follows:

519.302 Protesting a small business representation.

If SBA determines that an offeror is not a small business and there is evidence that the offeror knowingly misrepresented itself as a small business, the contracting officer shall refer the matter to the Inspector General (J) for investigation.

5. Section 519.500 is revised to read as follows:

519.500 Scope of subpart.

The requirements in this subpart for setting aside acquisitions and for reviewing non-set-aside determinations do not apply to construction, architectural and engineering, or trash/garbage collection services estimated to exceed $25,000 that are acquired under the Small Business Competitiveness Demonstration Program during periods when goals are being met and contracting officers are required to contract for such services using unrestricted procedures. (See FAR 19.10.) However, contracts for these services may be awarded under the 8(a) program.

6. Section 519.704 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

519.704 Subcontracting plan requirements.

(a) *Subcontracting goals.*

* * * * *

(2) Although there may be no known small or small disadvantaged business concerns that furnish the products or services required by a prospective contractor at the time a subcontracting plan is developed, a zero goal is not acceptable. A contractor is expected to make continuing efforts during the contract period to locate and identify newly emerging small and small disadvantaged business concerns as potential suppliers. Additionally, there may be subcontracting opportunities in the area of indirect costs.

(3) Goals in individual plans for multiyear contracts or contracts with options to extend the period of performance may be established for a period less than the full term of the contract (including options) when it is impractical to establish goals for the full term. However, the plan must include a schedule for establishing goals for the balance of the term of the contract and must establish separate goals for each option (see FAR 19.704(c)).

* * * * *

7. Section 519.705–4 is amended by revising paragraph (c), redesignating paragraph (d) as paragraph (f) and revising newly redesignated paragraph (f)(1), and adding new paragraphs (d) and (e) to read as follows:

519.705–4 Reviewing the subcontracting plan.

* * * * *

(c) The contracting officer shall question an offeror's proposed subcontracting goals when it appears that the goals, viewed against the criteria expressed at FAR 19.705–4(d), appear to offer less than the maximum practical opportunities for small and small disadvantaged subcontractors.

(d) When the subcontracting plan covers one or more options and the contracting officer determines that an option offers no subcontracting opportunities, the basis for the determination must be included either on GSA Form 3584 or as an attachment thereto, before it is forwarded to the SBTA and the SBA/PCR for review. If the option only adds work of the same or similar nature being performed by a large business subcontractor under the basis contract, a determination that the option offers no subcontracting opportunities for small and small disadvantaged business concerns still must be included either on GSA Form 3584 or as an attachment thereto.

(e) The contracting officer shall require that an offeror document in its subcontracting plan the steps to be taken to identify subcontracting opportunities for small and small disadvantaged business concerns and encourage the offeror to outline the steps it plans to take to ensure a good faith effort is made to achieve the small and small disadvantaged business subcontracting goals. Except for commercial product plans approved by another Federal agency, the contracting officer and the offeror should agree to criteria which, expressed in the subcontracting plan, will demonstrate the contractor's "good faith effort."

(f)(1) Before determining the responsibility of an offeror on a contract requiring a subcontracting plan, the contracting officer shall review the offeror's compliance with previous subcontracting plans, if any, approved by the GSA contracting ability, including the contractor's performance in submitting subcontracting reports in a timely manner. The findings must be documented on the GSA Form 3584, Checklist for Review of Subcontracting Plan, in the "Remarks" block or on an attachment to the GSA Form 3584 before forwarding it to the SBTA and the SBA/PCR for review.

* * * * *

8. Section 519.705–5 is amended as follows:

a. The letter in paragraph (c) is amended by revising the second, third, and fourth paragraphs and adding a new paragraph to precede the current fourth paragraph;

b. The letter in paragraph (d) is amended by revising the second paragraph and adding a new paragraph immediately following the second paragraph.

519.705–5 Awards involving subcontracting plans.

* * * * *

(c) * * *

The SF 294 report is used to report subcontracting activity under this contract. The report is due semiannually and must be submitted by April 30 for the reporting period October 1–March 31 and October 30 for the reporting period April 1–September 30. A separate report is required at contract completion.

The SF 295 report is used to report total subcontracting activity under all of your GSA contracts. The report shall be submitted annually and cover the period October 1–September 30 (the Government fiscal year). The report is due on or before October 30th of each year. A new reporting cycle begins October 1st of each year.

Please note the requirement on the SF 295 to report your subcontracting with women-owned small business concerns.

The SF 294 report must be submitted to: (*address of contracting office administering the contract),* with a copy to: (*address of SBTA*). Forward the SF 295 to the GSA Office of Small and Disadvantaged Business Utilization, (AU), 18th and F Streets, NW., Washington, DC 20405.

* * * * *

(d) * * *

The SF 295 is an annual report and is due on or before October 30th of each year. The reporting period is October 1–September 30, i.e., the Government fiscal year. The report should summarize subcontracting activity under plans for commercial products in effect during the reporting period.

Please note the requirement on the SF 295 to report your subcontracting with women-owned small business concerns.

Forward this report to: (*address of contracting office administering the contract*); and send a copy to the GSA Office of Small and Disadvantaged Business Utilization (AU), 18th and F Streets, NW., Washington, DC 20405.

* * * * *

9. Section 519.706–70 is revised to read as follows:

591.706–70 Monitoring contractor compliance with subcontracting plans.

(a) The contracting officer administering contracts with subcontracting plans shall monitor receipt of SF 294 reports for individual contract plans or SF 295 reports for company-wide plans and review the reports for progress in meeting subcontracting plan goals by comparing the reports with the plan. If percentage goals are not met, the contractor must be required to explain the shortfall in the "Remarks" block on the subcontracting reports and may be required to submit evidence of its outreach efforts to locate and provide subcontracting opportunities to small business and small disadvantaged business concerns. The requirement for compliance with plans may be fulfilled by evidence of satisfactory outreach efforts, as described in the plan, as well as by meeting plan goals. The contracting officer responsible for monitoring receipt of the reports shall also obtain delinquent SF 295 reports from contractors for both individual and company-wide plans upon request from AU.

(b) After completion of contracts with individual contract plans, SBTA's shall forward a copy of the final SF 294 reports to AU within 20 days after the end of each quarter. If the contractors are delinquent in submitting the reports, the SBTA's shall request the contracting officers administering the contracts with the plans to obtain the reports and send them a copy.

(c) In the case of commercial products plans approved by GSA, the first contracting officer who enters into a contract with a company during the company's fiscal year approves the plan and monitors receipt of reports and compliance with the plan. This responsibility is generally assigned to the ACO if contract administration is delegated. Subsequent GSA contracts awarded during the company's same fiscal year and incorporating the previously approved plan will not require submission of subcontracting reports.

(d) In the case of commercial products plans approved by another agency, the first GSA contracting officer entering into a contract with the company during the company's same fiscal year in which the plan was approved requires the contractor to submit the SF 295 report and monitors receipt of the report. No other monitoring of this plan is required by GSA.

(e) Contractor compliance with plans must be documented in the contract file in accordance with FAR 19.706 and must be considered by the contracting officer when determining contractor responsibility for future awards. Before determining that a contractor's failure to achieve the subcontracting goals was occasioned by bad faith, the contracting officer shall analyze the explanations required by paragraph (b) above or provided pursuant to FAR 19.706 and the criteria established in the subcontracting plan pursuant to 519.705–4(e).

(f)(1) Contractors who fail to submit SF 294 and SF 295 reports within 10 days of the due date must be reminded in writing that the report is past due.

(2) Contractors who do not respond to the first notice must be issued a second written notice by certified mail which must contain the following information:

(i) A statement that the named report has not been received.

(ii) A statement that failure to submit the report is a material breach of the contract (see FAR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan).

(iii) A statement that if the report is not received within 10 days from the date of the notice, the contracting officer will consider withholding payments as deemed appropriate under the circumstances until the report is received and may terminate the contract for default.

(iv) The contractor is also to be reminded that failure to submit the report may affect its ability to receive future awards from GSA (see FAR 9.104–3(c)) and that willful failure to perform or a history of failure to perform may result in debarment from future contracting with the Government for a period of time (see FAR 9.406–2(b)).

(v) The notice must also contain the address of the contracting officer or administrative contracting officer to whom the report must be sent and instructions that a copy of the report must be sent to AU, if it is a SF 295 report, and to the appropriate SBTA, if it is a SF 294 report.

(3) Copies of delinquency notices concerning SF 295 or SF 294 reports must be sent to AU or the appropriate SBTA, respectively.

(g) In all cases of non-compliance, (including instances where liquidated damages are assessed) the contracting officer shall notify AU through the SBTA.

10. Section 519.770–1 is amended by revising paragraph (a)(2), revising paragraph (b)(1) (ii) and (iii) and paragraph (b)(2)(ii) to read as follows:

519.770–1 Report forms.

(a) * * *

* * * * *

(2) Reports are due semiannually (within 30 days after March 31st and September 30th) and at contract completion.

(b) * * *

(1) * * *

* * * * *

(ii) The reports are annual and should cover the period October 1—September 30 (Government fiscal year). They are due on or before October 30th of each year.

(iii) The reports should include the total subcontracting activity under all GSA contracts held by the contractor, excluding contracts covered by commercial products plan.

(2) *Commercial products plans.*

* * * * *

(ii) Reports are due annually, on or before October 30th of each year. The reports should cover the contractor's

subcontracting activity under company-wide plan for commercial products in effect during the reporting period, which is October 1st to September 30th (Government fiscal year).

Dated: January 15, 1991.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91-1729 Filed 1-25-91; 8:45 am]

BILLING CODE 6820-61-M

Proposed Rules

Federal Register
Vol. 56, No. 18
Monday, January 28, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Regulation J; Docket No. R-0722]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is requesting comment on a proposed amendment to its Regulation J (12 CFR part 210), Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire. The proposed rule would require paying banks that receive presentment of checks from a Federal Reserve Bank to make the proceeds of settlement for those checks available to the Reserve Bank by as early as one hour after receipt of the checks. This amendment to Regulation J would be necessary to implement the proposed method for posting debits and credits to banks' reserve accounts in order to measure daylight overdrafts accurately under the Board's Payments System Risk Reduction Program, as proposed in Docket No. R-0721, elsewhere in today's Federal Register.

DATES: Comments must be submitted on or before May 31, 1991.

ADDRESSES: Comments, which should refer to Docket No. R-0722, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, attention: Mr. William W. Wiles, Secretary; or may be delivered to room B-2223 between 9 a.m. and 5 p.m. All comments received at the above address will be included in the public file and may be inspected at room B-1122 between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452-3625), Stephanie Martin, Attorney (202/452-3198), Legal Division; or Louise L. Roseman, Assistant Director, Division of Reserve Bank Operations and Payment Systems (202/452-3874); for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: In June 1989, the Board issued for comment proposed modifications to the Federal Reserve's payments system risk reduction program (54 FR 26090, June 21, 1989). As part of the proposed program, Federal Reserve Banks would charge banks [1] for intraday overdrafts. To establish a framework for implementing overdraft pricing and to establish the time of day at which non-wire transactions, such as check payments, give rise to a right to receive funds or a duty to settle for the payments, the Board proposed a posting scheme whereby credits and debits associated with various transactions would be posted to accounts at specific times during the day. In developing this posting scheme, the Board was guided by certain policy objectives: To eliminate intraday Federal Reserve float (i.e., to post debits and credits associated with the same transaction at the same time), to develop a posting scheme that would allow banks to control their use of Federal Reserve credit effectively, and to reflect the legal rights associated with each transaction.

Under the June 1989 proposal, Fedwire funds transfers and book-entry securities transfers would be posted as they occur, certain U.S. Treasury transactions would be posted during the day, and all other non-wire transactions, including check debits and credits, would be posted after the close of Fedwire. The proposed posting scheme for checks differed from the current *ex post* method for measuring overdrafts under the risk program. Under the current rule, if a bank has a net credit for all non-wire transactions (other than ACH) for the day, it is posted as of the opening of business, and if the institution has a net debit, it is posted at the end of the day.

[1] Under Regulation J, bank includes all depository institutions, including commercial banks, savings and loan associations, and credit unions. Regulation J defines paying bank as the bank by, at, or through which an item is payable or collectible and to which it is sent for payment or collection or the bank whose routing number appears on the item and to which it is sent for payment or collection. (12 CFR 210.2 (b) and (j)).

Many of the commenters on the risk reduction proposals requested that the Board revise the proposed posting scheme so that banks could use check credits earlier in the day without risking a charge for incurring a daylight overdraft. For example, the Board's Large-Dollar Payments System Advisory Group [2] suggested that check debits and credits be posted between 10:30 and 11:30 a.m. Eastern Time (ET) and that appropriate amendments be made to the Board's Regulation J to accommodate an earlier posting time. According to these commenters, making check credits available earlier in the day would increase their investment opportunities and therefore the yield on the proceeds of check deposits.

The Board has requested comment today on a new proposal under which reserve and clearing accounts would be debited and credited for check transactions earlier in the day than the time proposed by the Board in 1989 (see Docket No. R-0721, elsewhere in today's **Federal Register**). Under the proposal, a paying bank's account would be debited on the hour, based on the value of checks that had been presented to the paying bank an hour earlier, beginning at 11 a.m. e.t. A collecting bank's account would be credited according to a fractional intraday availability schedule, beginning at 11 a.m. e.t., based on the Reserve Banks' ability to present the checks to paying banks. Adoption of this proposal would require an amendment to Regulation J to allow Reserve Banks to debit reserve and clearing accounts earlier in the day for presented checks.

Current Law

Subpart A of Regulation J governs the collection of checks by Federal Reserve Banks and applies to "all parties interested in an item handled by any Reserve Bank." Subpart A of Regulation J provides for deferred posting of checks, i.e., that a paying bank can wait until the day after presentment of a check to decide whether to pay the check if it settles for the check on the day of presentment.[3] Deferred posting

[2] The Advisory Group, made up of private-sector payments system specialists, was formed by the Board in 1985 to assist in the development of the Board's payments system risk reduction program.

[3] 12 CFR 210.3(b).

allows banks more time to process checks internally than they would have if the checks were presented over the counter for immediate payment in cash and is essential to the methods currently used by paying banks in determining whether to pay checks.

Section 210.9(a)(1) of Regulation J provides that a paying bank becomes accountable for a check presented by a Reserve Bank at the close of the paying bank's banking day on which it receives the check, unless it returns the check or settles with the Reserve Bank for the check by a debit to an account on the books of the Reserve Bank, by cash, or by another form of payment agreed to by the Reserve Bank. Section 210.99(a)(2) of Regulation J specifies that "the proceeds of any payment shall be available to the Reserve Bank by the close of the Reserve Bank's banking day on the banking day of receipt of the item by the paying bank." Under these two provisions, it appears that a paying bank must settle for a check presented to it by a Federal Reserve Bank by the earlier of the close of its banking day or the close of the Reserve Bank's banking day. As a practical matter, in many cases this time is likely to be mid-afternoon, when the paying bank closes its lobby.

Although the Uniform Commercial Code ("UCC"), as currently adopted by the states, also provides for deferred posting of checks, the time by which settlement must be made by paying banks under the UCC differs from the time for paying banks to settle for checks presented to them under the provisions of Regulation J. Section 4–302 of the UCC provides that a paying bank becomes accountable for a check unless it settles for or returns the check before midnight on the banking day it receives the check. USS § 4–301 provides that if a paying bank settles for a check by midnight on the banking day of receipt, it may revoke that settlement if it returns the checks or sends notice in lieu of return by midnight of the banking day following the banking day of receipt.[4] Thus, Regulation J requires the paying bank to settle for a check presented by a Reserve Bank at an earlier time (the close of the paying bank's or the Reserve Bank's banking day) than does the UCC (midnight on the banking day of receipt [5] if it wishes to retain the right to return the check on the next banking day.[6]

Reserve Banks may enter into agreements with paying banks to alter this time of payment, and the Board has the ability to make further changes regarding the collection of checks under the authority of the Federal Reserve Act ("FRA"). Section 16(14) of the FRA authorizes the Board to adopt regulations concerning the transfer of funds among Reserve Banks and to require Reserve Banks to act as clearing houses for other Reserve Banks and for depository institutions. Section 13 of the FRA authorizes Reserve Banks to engage in check collection on behalf of member banks and non-member depository institutions, and section 11 grants the Board general supervisory and rule-making authority over Reserve Bank activities.

Proposed Regulation J Amendment to Implement Check Posting Scheme

The Board is requesting comment on a proposed amendment to Regulation J that would revise § 210.9(a)(2) to require a paying bank to settle for or return checks presented by a Reserve Bank in immediately available funds by the end of the clock hour after the hour during which presentment takes place,[7] or one hour after the scheduled opening of Fedwire, whichever, is later, or by such later time as is provided in the Reserve Bank's operating circular. The proposed amendment provides that if the proceeds of the settlement are not available within the designated time frame, unless the check is returned, the paying bank would be subject to any applicable overdraft charges.

Under proposed § 210.9(a)(1), as long as either the proceeds of the settlement are available to the Reserve Bank by the close of Fedwire on the day the paying bank received the check or the paying bank returns the check before the close of its banking day, the paying bank would no be accountable for the check and would be able to exercise deferred posting. [The Board is also proposing a technical revision to the definition of "banking day" to correspond to the definition in UCC § 4–104(1)(c).] [8]

Under the proposal, if the Reserve Bank is closed on the day the paying bank receives presentment of a check, the paying bank will become subject to any applicable overdraft charges unless it either returns the check by midnight on the day of presentment or settles for the check in immediately available funds by one hour after the scheduled opening of Fedwire on the Reserve Bank's next banking day or by such later time as is provided in the Reserve Bank's operating circular. In addition, if the Reserve Bank is closed on the day the paying bank receives presentment of a check, the paying bank will become accountable for the check unless it returns the check by midnight or settles for the check in immediately available funds by the close of Fedwire on the Reserve Bank's next banking day.

If the paying bank voluntarily closes, either for the entire day or before it receives its check presentment from the Reserve Bank, on a day the Reserve Bank is open, the paying bank must either (1) return or settle for checks presented by the end of the next clock hour after the hour during which the checks would ordinarily be received by the paying bank, or one hour after the scheduled opening of Fedwire, whichever is later, or by such later time as is provided in the Reserve Bank's operating circular, or (2) settle by one hour after the scheduled opening of Fedwire on the next day on which both the paying bank and the Reserve Bank are open, or by such later time as is provided in the Reserve Bank's operating circular, and compensate the Reserve Bank for the float. Failure to settle by these times could result in the imposition of overdraft charges.[9]

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[4] See also §§ 4–301 and 4–302 of the 1990 Official Text of the UCC as approved by the National Conference of Commissioners on Uniform State Laws and the American Law Institute.

[5] Regulation J also limits the means of settlement that a paying bank may use to meet this obligation.

[6] The Board's authority to set the time and form of settlement for checks presented by Federal Reserve Bank has been upheld by the courts on two occasions. See *Community Bank* v. *Federal Reserve Bank of San Francisco*, 500 F.2d 292 (9th Cir. 1974), and *Independent Banks Association of America* v. *Board of Governors of the Federal Reserve System*, 500 F.2d 812 (D.C. Cir. 1974).

[7] For example, checks presented at 12:30 p.m. e.t. must be settled for by 2 p.m. e.t. Generally, paying banks authorize Reserve Banks, through an autocharge agreement, to debit their reserve or clearing accounts for the amount of checks presented. This authorization may constitute settlement for the checks even if the Reserve Bank does not post the charge to the paying bank's account until after the time at which the settlement obligation arises.

[8] The citation to the 1990 Official Text is § 4–104(a)(3).

[9] The Board's proposed policy for institutions without discount window access, specifically bankers' banks that do not hold reserves, Edge corporations, and institutions with imposed zero caps, would provide that these institutions may not incur overdrafts. Under the proposal, issued for comment in May 1990, in the event one of these institutions incurred an overdraft, the Reserve Bank would charge it an amount equal to the overnight overdraft penalty fee (currently the federal funds rate plus 2 percent) levied against the maximum daylight overdraft level. In the event the overdraft is not fully repaid by the end of the day, the Board proposed that the institution would be charged an additional amount equal to the overnight overdraft penalty fee and would be required to hold excess balances in its reserve/clearing account on subsequent days to make up for the shortfall. If the May 1990 proposal's overdraft provisions are adopted by the Board, certain bankers' banks, Edge corporations, and imposed-zero-cap institutions

Continued

Generally, all checks now presented by the Federal Reserve for same-day settlement are received by the paying bank by 2 p.m. local time. Although the UCC and Regulation J generally provide an opportunity for the paying bank to examine the checks to decide whether to settle for or return them by the close of business, this time period permits only limited verification of cash letters. For example, a paying bank could verify that a cash letter had been received, but could not examine individual checks prior to settling for the cash letter. This limited verification, however, is consistent with the theory and practice of deferred posting of checks under the UCC. Paying banks generally do not examine checks individually until after the close of business on the day of presentment or during the following day. Under the proposed Regulation J amendment, paying banks will continue to have at least one hour to verify the receipt of a cash letter before settling for it or to return the cash letter and avoid having to settle for it.

In addition, earlier debiting of reserve and clearing accounts for presented checks will benefit collecting banks and their customers by enabling the Federal Reserve to credit their accounts for checks earlier in the day without incurring intraday float. This earlier availability will facilitate the prompt investment of check deposits, as suggested by the commenters to the Board's June 1989 proposal, and is consistent with the purposes of the Expedited Funds Availability Act.

Section 609(b)(1) of the Expedited Funds Availability Act provides that the Board shall consider requiring by regulation that banks be charged based upon notification that a check or similar instrument will be presented for payment. The Board may consider this option in the future but believes that, at this time, it is appropriate to require settlement only after physical presentment.

Proposed Amendment to Subpart B of Regulation J to Implement Pricing

In order to accommodate the possibility of pricing of overdrafts, the Board is also proposing an amendment to subpart B of Regulation J, Wire Transfers of Funds. Under the proposed amendment, an account at a Federal Reserve Bank would be subject explicitly to any applicable overdraft charges resulting from funds transfers.

would be expected to pre-fund all account debits for presented checks. If a debit for checks created an overdraft for one of these institutions, the institution would be charged whatever penalty fee the Board ultimately adopts.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements, nor are there any other relevant federal rules that duplicate, overlap, or conflict with the proposed rule.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all banks that receive presentment of checks from Federal Reserve Banks, regardless of size. Should the Board implement pricing of daylight overdrafts and allow a percent-of-capital deductible, the small overdrafts incurred by many small banks would be covered by the deductible and exempt from pricing. Thus, the Board does not believe that small banks that incur small overdrafts would bear a significant burden under the proposed amendments to Regulation J.

Competitive Impact Analysis

The Board recently formalized its procedures for assessing the competitive impact of changes that have a substantial effect on payments system participants.[10] Under these procedures, the Board will assess whether the proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences.

The Board believes that, when considered alone, the proposed amendment to Regulation J may have a direct and material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks' payment services. The proposed amendment will enable Reserve Banks to obtain settlement in immediately available funds for checks presented to paying banks as early as one hour after presentment. In turn, Reserve Banks would be able to give credit for checks they collect earlier in the day without incurring intraday float. Private-sector collecting banks ordinarily can not obtain settlement within a comparable time or in a comparable form without entering into an agreement with the paying bank or paying presentment fees or both.

The Board believes, however, that when the proposed Regulation J amendment is considered within the context of the proposed payments system risk reduction program modifications (see Docket No. R–0721, elsewhere in today's Federal Register) and the Board's anticipated proposal regarding same-day settlement for private-sector collecting banks, the benefits of the Regulation J amendment in facilitating the payments system risk reduction program and enabling Reserve Banks to accelerate availability of check deposits outweigh the adverse effects. Many of the advance effects on the Federal Reserve's competitors in the check collection system would be mitigated by the benefits of the proposed overdraft measurement scheme. For example, under the proposed overdraft measurement scheme, depository institutions participating in private clearinghouses would be able to establish the time at which net settlement entries for the checks exchanged among participants would be posted to reserve and clearing accounts. Thus, the participants would be able to control the time at which credits and debits would be posted to their accounts. Correspondent banks that clear checks on behalf of respondents would be able to make payments to their respondents for any checks collected through the Federal Reserve on the settlement day without incurring daylight overdrafts, provided that the timing of payments to responents followed the receipt of credit from the Federal Reserve.

The Board expects to request comment in the near future on a same-day settlement proposal that would grant private collecting banks rights to receive settlement from paying banks that would be closer to the rights the Reserve Banks have under Regulation J. The same-day settlement proposal would further mitigate any adverse competitive effects caused by the proposed Regulation J amendment.

The Board's goal of achieving accurate measurement of daylight overdrafts without incurring intraday float could be met by posting credits and

[10] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," which was revised in March 1990. (55 FR 11648, March 29, 1990).

debits for checks presented by Reserve Banks after the close of business, as originally proposed in June 1989. The Board's June 1989 proposal for overdraft measurement would not have required an amendment to Regulation J and therefore would not have caused the adverse competitive effects described above. Many of the commenters to the June 1989 proposal, however, including the Board's Large-Dollar Payments System Advisory Group, requested that check credits and debits be posted earlier in the day to allow intraday use of funds by collecting banks. The Board requests comment, in light of the other modifications to the payments system, risk reduction program proposed today and the anticipated same-day settlement proposal, on whether the ability to use check credits during the day outweighs the negative effects of being charged for checks intraday under the proposed Regulation J amendment.

List of Subjects in 12 CFR Part 210

Banks, Banking, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 210 is proposed to be amended as follows:

PART 210—REGULATION J (COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE)

1. The authority citation for part 210 continues to read as follows:

Authority: Federal Reserve Act, sec. 13 (12 U.S.C. 342), sec. 11 (i) and (j) (12 U.S.C. 248 (i) and (j)), sec. 16 (12 U.S.C. 248(o) and 360), and sec. 19(f) (12 U.S.C. 464); and the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*)

2. Section 210.2 is amended by revising paragraph (d) and adding a new paragraph (n) to read as follows:

§ 210.2 Definitions.

* * * * *

(d) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

* * * * *

(n) "Fedwire" has the same meaning as that set forth in § 229.26(e) of this part.

* * * * *

3. Section 210.9 is amended by revising paragraph (a) to read as follows:

§ 210.9 Settlement and Payment.

(a) *Cash items.* (1) A paying bank becomes accountable for the amount of a cash item received directly or indirectly from a Reserve Bank as of the close of the paying bank's banking day on which it receives [2] the cash item if it retains the cash item after the close of that banking day, unless it settles for the cash item by:

(i) Debit to an account on the Reserve Bank's, books;

(ii) Cash; or

(iii) In the discretion of the Reserve Bank, any other form of settlement;

so that the proceeds of the settlement are available to the Reserve Bank by the close of Fedwire on the day the paying bank receives the item.

(2) A paying bank shall settle with a Reserve Bank for the amount of a cash item received directly or indirectly from the Reserve Bank so that the proceeds of the settlement are available to the Reserve Bank by the end of the next clock hour after the hour during which the paying bank receives the cash item, or one hour after the scheduled opening of Fedwire, whichever is later, or by such later time as is provided in the Reserve Bank's operating circular, unless the paying bank returns the cash item prior to the time for settlement specified by this paragraph (a)(2). If the item is not returned and the proceeds of any settlement are not available to the Reserve Bank as required by this paragraph (a)(2), the paying bank will be subject to any applicable overdraft charges.

(3)(i) If a paying bank receives a cash item directly or indirectly from a Reserve Bank on a banking day that is not a banking day for the Reserve Bank:

(A) The paying bank will be subject to any applicable overdraft charges unless it returns the cash item by midnight of the banking day of receipt, or settles for the cash item so that the proceeds of the settlement are available to the Reserve Bank by one hour after the scheduled opening of Fedwire on the Reserve Bank's next banking day, or by such later time as is provided in the Reserve Bank's operating circular; and

(B) The paying bank becomes accountable for the cash item unles it returns the item by midnight of the banking day of receipt, or settles for the cash item so that the proceeds of the settlement are available to the Reserve Bank by the close of Fedwire on the Reserve Bank's next banking day.

(ii) If a paying bank closes voluntarily on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes a cash item available to the paying bank on that day, the paying bank will be subject to any applicable overdraft fees, unless it:

(A) Settles for the cash item, so that the proceeds of the settlement are available to the Reserve Bank by the end of the next clock hour after the hour during which the paying bank ordinarily would have received the items, or one hour after the scheduled opening of Fedwire, whichever is later, or by such later time as is provided in the Reserve Bank's operating circular;

(B) Settles for the cash item on the next day that is a banking day for both the paying bank and the Reserve Bank, so that the proceeds of the settlement are available to the Reserve Bank by one hour after the scheduled opening of Fedwire on that day, or by such later time as is provided in the Reserve Bank's operating circular, and compensates the Reserve Bank for the value of the float associated with the items in accordance with procedures provided in the Reserve Bank's operating circular; or

(C) Returns the cash item by the time designated in paragraph (a)(3)(ii)(A) of this section.

If a paying bank closes voluntarily on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes a cash item available to the paying bank on that day, the paying bank is not considered to have received the item until its next banking day.

* * * * *

3. Section 210.28 is amended by adding a new paragraph (b)(5) to read as follows:

§ 210.28 Agreement of sender.

* * * * *

(b) * * *

(5) If a sender, other than a government sender described in § 210.25(d) of this subpart, incurs an overdraft in its account as a result of a debit to the account by a Federal Reserve Bank under paragraph (a) of this section, the account will be subject to any applicable overdraft charges, regardless of whether the overdraft has become due and payable. A Federal Reserve Bank may debit a sender's account under paragraph (a) of this section immediately on acceptance of the payment order.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 22, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-1902 Filed 1-25-91; 8:45 am]

BILLING CODE 6210-01-M

[2] A paying bank is deemed to receive a cash item on its next banking day if it receives the item:

(1) On a day other than a banking day for it; or

(2) On a banking day for it, but after a "cut-off hour" established by it in accordance with state law.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-ANE-26]

Airworthiness Directives; Air Cruisers Co., TSO-C69 Evacuation Slide System, P/N D31021-101 and -103

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD), that would require certain modifications to the Air Cruisers Evacuation Slides P/N D31021-101 and -103. This AD is prompted by two events wherein slides did not deploy properly. The proposed AD is needed to prevent the slides from inflating improperly which could result in hampering an emergency evacuation of the aircraft.

DATES: Comments must be received on or before February 25, 1991.

ADDRESSES: Comments on the proposal may be mailed in duplicte to the FAA, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 90-ANE-26, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to room 311 at the above address.

Comments may be inspected at the above location in room 311, between the hours of 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays.

The applicable Service Bulletin may be obtained from Air Cruisers Co., P.O. Box 180, Belmar, NJ 07719-0180, or may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, Aerospace Engineer, New York Aircraft Certification Office, Systems and Equipment Branch, ANE-173, Engine & Propeller Directorate, Aircraft Certification Service, FAA, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before any action is taken on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped post card on which the following statement is made: Comments to Docket No. 90-ANE-26. The postcard will be date/time stamped and returned to the commenter.

The FAA has determined that an unsafe condition exists on airplanes equipped with Air Cruisers Co., TSO-C69 Emergency Evacuation Slide System, P/N D31021-101 and -103. There have been two events wherein slides did not deploy properly.

Investigation by Air Cruisers Co., disclosed that the causes of these malfunctions were the failure to open the aircraft door in one single opening movement, which resulted in interference with the proper inflation sequence, and strong winds which resulted in the twisting of the slides.

The modifications to the slides are necessary to make the deployment less dependent on aircraft door opening dynamics and to establish assurance of proper inflation for deployment of the slides in windy conditions. Since this condition is likely to exist or develop on other slides on the same type design, the proposed AD would require that the Air Cruisers Evacuation Slides, P/N D31021-101 and 103 be modified by eliminating and discarding the ejector-bag, the ejector-bottle, the ejector-bottle cradle, the ejector release cable, the inflation-cable and guide-tube, the clips from the decorative cover and pack board and the inflation cable guide at the carbon dioxide valve assembly. The AD would further require at the carbon dioxide valve, and clips at the pack-board and decorative cover, be replaced with redesigned parts.

Additionally to control the inflation sequence, which will result in assured inflation of the slides, and to improve the stability of the slides against wind dynamics, which will prevent the slides from becoming entangled on the wing flap actuator, the following modifications would be required: addition of center restraint patches, restraint sheath assembly, panel shield, stabilizer pads and a girt-stiffener.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves approximately 222 emergency evacuation slides and the approximate cost would be $400 for the materials plus 7 man-hours at $40 per hours, which amounts to $680 per slide/raft. Based on these figures the approximate total cost will be $150,960.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of a draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Air Cruisers Co.: Applies to Air Cruisers Co. TSO–C69 Emergency Evacuation Slide System, P/N D31021–101 and –103, Serial Numbers 1 through 222, installed on, but not limited to Airbus Industries Models A300 B2–1C, A300 B4–2C, A300 B4–200 and A300 B4–600 series airplanes.

Compliance is required within 9 months after the effective date of this AD, unless already accomplished.

To prevent the possibility of the emergency evacuation slides from inflating improperly which could result in hindrance of the emergency evacuation of the airplance, accomplish the following:

(a) Modify and reidentify the above Air Cruisers Co. slides in accordance with Air Cruisers Co. Service Bulletin (SB) 001–25–8, Revision 4, dated May 24, 1990, Paragraph 2, Accomplishment Instructions.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance (schedule) times specified in this AD may be approved by the Manager New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, Aircraft Certfication Service, 181 South Franklin Avenue, Valley Stream, New York 11581.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Air Cruisers Co., P.O. Box 180 Balmar, New Jersey 07719–0180. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Room 311, 12 New England Executive Park, Burlington Massachusetts 01803–5299.

Issued in Burlington, Massachusetts, on January 3, 1991.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 91–1877 Filed 1–25–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–274–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires the installation of protective sleeves on wire breakouts and oxygen lines in the upper deck left sidewall. This condition, if not corrected, could result in chafing of wires, which could arc and possibly burn through an adjacent oxygen line; this could create a fire hazard should the oxygen line be pressurized. This action would require the addition of 45 airplanes not listed in the existing AD. This proposal is prompted by a report that several additional airplanes may be affected by the same unsafe condition that prompted the existing AD.

DATES: Comments must be received no later than March 20, 1991.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–274–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. David Herron, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2672. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–274–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On September 20, 1989, the FAA issued AD–89–21–07, Amendment 39–6343 (54 FR 40635, October 3, 1989), to require the installation of protective sleeves on wire breakouts and oxygen lines in the upper deck left sidewall of certain Boeing Model 747 series airplanes. That action was prompted by inspections of several airplanes that revealed certain wire bundles could contact oxygen lines at six locations. This condition, if not corrected, could result in chafing of the wires, which could arc and possibly burn through an adjacent oxygen line; this could create a fire hazard should the oxygen line be pressurized.

Since issuance of that AD, the manufacturer has advised the FAA that 45 other airplanes have been identified which could have this problem and were not listed in the original AD.

The FAA has reviewed and approved Boeing Service Bulletin 747–35–2059, Revision 2, dated March 2, 1990, which describes the installation of protective sleeves on wire breakouts and oxygen lines at six locations on the upper deck left sidewall. This revision of the service bulletin lists additional affected airplanes in its effectivity.

Since this condition is likely to exist or develop or other airplanes of this same type design, an AD is proposed which would supersede AD 89–21–07, Amendment 39–6343, with a new airworthiness directive that would require modification of an additional 45 airplanes not listed in the original AD, in accordance with the service bulletin previously described.

There are approximately 127 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 7 airplanes of U.S. registry were affected by AD 89–21–07. No additional U.S.-registered airplanes are affected by this amendment. However, should an effected airplane be imported and placed on the U.S. register in the future, approximately 6 manhours would be necessary to accomplish the required actions, and the average labor cost would be $40 per manhour. Based on these figures, the cost impact of the AD on an affected U.S. operator is estimated to be $240 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–6343 (54 FR 40635, October 3, 1989), AD 89–21–07, with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Service Bulletin 747–35–2059, Revision 2, dated March 22, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent chafing of wire bundles, subsequent arcing and burn-through of adjacent oxygen lines, and a resulting potential fire hazard, accomplish the following:

A. For airplanes listed in Boeing Service Bulletin 747–35–2059, dated August 17, 1989: Within 60 days after October 16, 1989 (the effective date of Amendment 39–6343, AD 89–21–07), install protective sleeves on wire breakouts and oxygen lines in the upper deck left sidewall in accordance with Boeing Service Bulletin 747–35–2059, dated August 11, 1989; Revision 1, dated November 22, 1989; or Revision 2, dated March 22, 1990.

B. For airplanes listed in Boeing Service Bulletin 747–35–2059, Revision 2, dated March 22, 1990, that are not subject to paragraph A. of this AD; within 60 days after the effective date of this AD, install protective sleeves on wire breakouts and oxygen lines in the upper deck left sidewall in accordance with Boeing Service Bulletin 747–35–2059, Revision 2, dated March 22, 1990.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, NOrthwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on January 17, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–1879 Filed 1–25–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–269–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Rolls Royce RB211–535 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require inspection of the thrust control cables and wire bundles in the leading edge of both wings; repair, if necessary; and relocation of the wire bundle clamps and securing of the affected wire bundles. This proposal is prompted by reports that insufficient clearance may exist between the thrust control cable assemblies and wire bundles. This condition, if not corrected, could result in damage to the thrust control cable assemblies, which may result in a sudden change in engine thrust and possibly an uncommanded restow of the thrust reverser during a landing rollout.

DATES: Comments must be received no later than March 19, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–269–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. G. Michael Collins, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S; telephone (206) 227–2689. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90–NM–269–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

It has been determined, during factory assembly, that insufficient clearance may exist between the trust control cable assemblies and the wire bundle clamp and wire bundles in the leading edge of both wings on certain Boeing Model 757 series airplanes. Interference between the thrust control cable assemblies and the wire bundle could cause chafing of the thrust control cable assemblies. Damage to the thrust control cable assemblies may result in a sudden change in engine thrust and possibly an uncommanded restow of the thrust reverser during a landing rollout.

The FAA reviewed and approved Boeing Service Bulletin 757-76-0008, dated March 22, 1990, which describes procedures for inspection of the thrust control cable, for damage, and relocation of the wire bundle clamps, and securing of the affected wire bundles to prevent chafing with the thrust control cable assemblies.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspection of the thrust control cables and wire bundles in the leading edge of both wings and, if evidence of chafing exists, repair or replacement, as necessary, in accordance with the service bulletin previously described. This proposed rule would also require relocation of the wire bundle clamps and securing of the affected wire bundles, as described in the Boeing Service Bulletin, to prevent chafing.

There are approximately 121 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 33 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,920.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes, equipped with Rolls Royce RB211-535 engines; as listed in Boeing Service Bulletin 757-76-0008, dated March 22, 1990; certificated in any category. Compliance is required within the next 3,000 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent chafing of the thrust control cable assemblies, wire bundle clamps, and wire bundles, accomplish the following:

A. Accomplish the following in accordance with Boeing Service Bulletin 757-76-0008, dated March 22, 1990:

1. Inspect thrust control cable assemblies for damage, and replace any damaged thrust control cable assemblies prior further flight;

2. Inspect the wire bundles for evidence of chafing, and repair any chafed wire bundles prior to further flight; and

3. Modify the wire bundles.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1878 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-259-AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, which would require repetitive visual inspections to detect cracks in the rudder lower hinge attachment brackets, and to check the security of the fasteners in this area, and repair, if necessary. This proposal is prompted by reports of cracked and loose or failed fasteners in the rudder lower hinge lower attachment rib angle brackets attached to the front spar of the rudder. This condition, if not corrected, could impair the operation of the rudder and result in reduced directional control of the airplane.

DATES: Comments must be received no later than March 19, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-259-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, 1601 Lind Avenue SW., Renton, Washington 98055-4056. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of ths proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-259-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace Model ATP series airplanes. There have been reports of cracks and loose or failed fasteners in the rudder lower hinge lower attachment rib angle brackets attached to the rudder front spar. This condition, if not corrected, could impair the operation of the rudder and result in reduced directional control of the airplane.

British Aerospace has issued Service Bulletin ATP-55-3, Revision 4, dated June 28, 1990, which describes procedures for repetitive visual inspections to detect cracks in the rudder lower hinge attachment brackets, and to check the security of the fasteners in this area, and repair, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

British Aerospace has also issued Service Bulletin ATP-55-5, dated November 30, 1990, which describes procedures for the installation of Modification 10170A, which includes strengthening the rudder lower hinge ribs at Stations 29.582, 27.582, and 24.82. Accomplishment of this modification would eliminate the need for the repetitive inspections recommended by Service Bulletin ATP-55-3. The United Kingdom CAA has not classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual inspections to detect cracks in rudder lower hinge attachment brackets, and to check the security of the fasteners in this area, and repair, if necessary, in accordance with Service Bulletin ATP-55-3, previously described. The proposal would also provide for optional terminating action for these repetitive inspections as the installation of Modification 10170A, as described in Service Bulletin ATP-55-5.

It is estimated that 4 airplanes of U.S. registry would be affected by this AD, that it would take approximately one manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $160.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of govenrment. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a sufficient economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Applies to all Model ATP series airplanes which have not installed Modification 10170A (described in British Aerospace Service Bulletin ATP-55-5), certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced directional control of the airplane due to impairment of the operation of the rudder, accomplish the following:

A. For airplanes with rudders in pre-Modification 10165A configuration: Prior to the accumulation of 750 hours time-in-service, or within 125 hours time-in-service after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 125 hours time-in-service, perform a detailed visual inspection of the angle brackets attaching the hinge ribs at Stations 27.582 and Station 29.582 for cracks, and a detailed visual inspection of the fasteners attaching the reinforcing plates for security, in accordance with paragraph 2.A. of British Aerospace Service Bulletin ATP 55-3, Revision 4, dated June 28, 1990.

1. If cracking or local distortion is found on the angles or doubling plate flanges on the front face of the rudder spar, prior to further flight, remove the bolts and doubling plates, and perform a detailed visual inspection in accordance with paragraph 2.B. of the service bulletin.

2. All items found cracked and all rivets found distorted or insecure must be replaced with a serviceable part prior to further flight, in accordance with paragraph 2.C of the service bulletin.

B. For airplanes with rudders fitted with Modification 10165A during production: Prior to the accumulation of 6,250 hours time-in-

service, or within 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 500 hours time-in-service, perform a detailed visual inspection of the angle brackets attaching the hinge ribs at Station 27.582 and Station 29.582 for cracks, and a detailed visual inspection of the fasteners attaching the reinforcing plates for security, in accordance with paragraph 2.A. of British Aerospace Service Bulletin ATP 55-3, Revision 4, dated June 28, 1990.

1. If cracking or local distortion is found on the angles or doubling plate flanges on the front face of the rudder spar, prior to further flight, remove the bolts and doubling plates, and perform a detailed visual inspection in accordance with paragraph 2.B. of the service bulletin.

2. All items found cracked and all rivets found distorted or insecure must be replaced with a serviceable part prior to further flight in accordance with paragraph 2.C of the service bulletin.

C. For airplanes with rudders fitted with Modification 10165A in accordance with British Aerospace Service Bulletin ATP-55-4, or by previous repair or replacement action: Prior to the accumulation of 500 hours time-in-service following installation, or within 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 500 hours time-in-service, perform a detailed visual inspection of the angle brackets attaching the hinge ribs at Stations 27.582 and Station 29.582 for cracks, and a detailed visual inspection of the fasteners attaching the reinforcing plates for security, in accordance with paragraph 2.A. of British Aerospace Service Bulletin ATP 55-3, Revision 4, dated June 28, 1990.

1. If cracking or local distortion is found on the angles or doubling plate flanges on the front face of the rudder spar, prior to further flight, remove the bolts and doubling plates, and perform a detailed visual inspection in accordance with paragraph 2.B. of the service bulletin.

2. All items found cracked and all rivets found distorted or insecure must be replaced with a serviceable part prior to further flight in accordance with paragraph 2.C. of the service bulletin.

D. The installation of Modification 10170A, which includes strengthening the rudder lower hinge ribs at Stations 29.582, 27.582, and 24.82. in accordance with British Aerospace Service Bulletin ATP 55-5, dated November 30, 1990, constitutes terminating action for the repetitive inspections required by paragraphs A. and B. of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on January 16, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 91-1880 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-279-AD]

Airworthiness Directives; McDonnell Douglas Model DC-8F, DC-8-61F, -62F, -63F, -71F, -72F, and -73F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-8 series airplanes, which would require inspection and replacement of the cargo door latch spool fitting attach bolts. This proposal is prompted by a report of broken latch spool fitting attach bolts found on a Model DC-9 series freighter airplane. This condition, if not corrected, could result in inadvertent opening of the main cargo door in flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

DATES: Comments must be received no later than March 20, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-279-AD, 1601 Lind Avenue S.W., Renton, Washington 98055-4056. The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: John L. Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-122L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5322.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Comments wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-279-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On September 6, 1990, the FAA issued AD 90-19-13, Amendment 39-6734 (55 FR 38051, September 17, 1990), applicable to certain McDonnell Douglas Model DC-8 series freighter airplanes, which requires a one-time torque test of the cargo door spool fitting attach bolts, and retorquing or replacement of the bolts, if necessary. The torque test ensures the security of the latch spool fitting to the door jamb. That action was prompted by a report of a broken cargo door latch spool fitting attach bolt found on a Model DC-9 series freighter airplane. A torque test on the remaining bolts on that airplane revealed that 5 out of 28 bolts were broken. Failure of the bolts was attributed to stress corrosion.

The cargo door spool fitting attach bolts on the Model DC–8 are essentially the same as on the Model DC–9; thus, the same potential for failure exists for the Model DC–8. This condition, if not corrected, could result in inadvertent opening of the main cargo door in flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

The torque test required by AD 90–19–13 ensures that flaws do not exceed a specified size. However, the torque test will not detect all flaws that could lead to failure; therefore, the FAA has determined that additional action is necessary.

The FAA has reviewed and approved McDonnell Douglas DC–8 Service Bulletin 52–82, Revision 3, dated October 19, 1990, which describes procedures for magnetic particle inspections of the upper cargo door latch spool fitting attach bolts, and replacement of the bolts, as necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive magnetic particle inspections of the cargo door latch spool fitting attach bolts, and replacement of the bolts, if necessary, in accordance with the service bulletin previously described. Additionally, this proposed rule would require that, within two years after the effective date of this AD, all of the non-Inconel bolts be replaced with Inconel bolts; when accomplished, such replacement would be considered terminating action for the repetitive inspections required by this proposed rule.

The FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed requirement to install Inconel bolts is in consonance with that policy decision.

There are approximately 164 McDonnell Douglas Model DC–8 series airplanes of the affected design in the worldwide fleet. It is estimated that 112 airplanes of U.S. registry would be affected by this AD, that it would take approximately 13.8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of parts required for terminating action is estimated to be $4,800 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $599,424.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnel Douglas: Applies to all McDonnell Douglas Model DC–8F, DC–8–61F, –62F, –63F, –71F, –72F, and –73F series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent inadvertent opening of the main cargo door in flight, a condition which could result in loss of pressurization and reduced controllability of the airplane, accomplish the following:

A. Within four months after the effective date of this AD, and thereafter at intervals not to exceed one year, perform magnetic particle inspections on the cargo door latch spool fitting attach bolts, or replace the non-Inconel (H–11) cargo door latch spool fitting attach bolts with new bolts, in accordance with the Accomplishment Instructions for Phase 2 of McDonnell Douglas DC–8 Service Bulletin 52–82, Revision 3, dated October 19, 1990 (hereafter referred to as "the Service Bulletin").

1. If a bolt does not pass the magnetic particle inspection, prior to further flight, replace it with a new bolt and seal in accordance with Figure 1 of the Service Bulletin.

2. If a bolt passes the magnetic particle inspection, prior to further flight, reinstall the bolt and seal in accordance with the Service Bulletin.

B. The inspections required by paragraph A. of this AD are not required for Inconel bolts, part numbers RA21026–7–23, 77711–7–24, and 3D0031–7–24.

C. Within two years after the effective date of this AD, replace non-Inconel (H–11) bolts with Inconel bolts, part numbers RA21026–7–23, 77711–7–24, or 3D0031–7–24, in accordance with the Accomplishment Instructions for Phase 3 of the Service Bulletin. Installation of Inconel bolts constitutes terminating action for the requirements of paragraph A. of this AD.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of the requirements of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–0001, Attention: Business Unit Manager, Technical Publications, C1–HDR (54–60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on January 17, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–1881 Filed 1–25–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90-NM-280-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-15F, -32F, -33F, -34F, and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-8 series airplanes, which would require inspection and replacement of the cargo door latch spool fitting attach bolts. This proposal is prompted by a report of broken latch spool fitting attach bolts found on a Model DC-9 Series freighter airplane. This condition, if not corrected, could result in inadvertent opening of the main cargo door in flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

DATES: Comments must be received no later than March 20, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-280-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Lee, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-122L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5325.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response in this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-280-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On August 14, 1990, the FAA issued AD 90-16-51-R1, Amendment 39-6710 (55 FR 334701, August 24, 1990), applicable to certain McDonnell Douglas Model DC-9 series airplanes, which requires a one-time torque test of the cargo door latch spool fitting attach bolts, and retorquing or replacement of the bolts, if necessary. The torque test ensures the security of the latch spool fitting to the door jamb. That action was prompted by a report of a broken cargo door latch spool fitting attach bolt found on a Model DC-9 series freighter airplane. A torque test on the remaining bolts on that airplane revealed that 5 out of 28 bolts were broken. Failure of the bolts was attributed to stress corrosion. This condition, if not corrected, could result in inadvertent opening of the main cargo door in flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

The torque test required by AD 90-16-51 R1 ensures that flaws do not exceed a specified size. However, the torque test will not detect all flaws that could lead to failure; therefore, the FAA has determined that additional action is necessary.

The FAA has reviewed and approved McDonnell Douglas DC-9 Alert Service Bulletin A52-174, dated August 7, 1990, which describes procedures for magnetic particle inspections of the upper cargo door latch spool fitting attach bolts, and replacement of the bolts, as necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require repetitive magnetic particle inspections of the cargo door latch spool fitting attach bolts, and replacement of the bolts, if necessary, in accordance with the service bulletin previously described. Additionally, this proposed rule would require that within two years after the effective date of the AD, all of the non-Inconel bolts be replaced with Inconel bolts; when accomplished, such replacement would be considered terminating action for the repetitive inspections required by this proposed rule.

The FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed requirement to install Inconel bolts is in consonance with that policy decision.

There are approximately 95 McDonnell Douglas Model DC-9 series airplanes of the affected design in the worldwide fleet. It is estimated that 83 airplanes of U.S. registry would be affected by this AD, that it would take approximately 47 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of parts required to accomplish the terminating action is estimated to be $1,716 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $298,468.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the

criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC-9-15F, -32F, -33F, -34F, and C-9 (Military) series airplanes, certified in any category. Compliance required as indicated, unless previously accomplished.

To prevent inadvertent opening of the foreward upper cargo door in flight, a condition which could result in loss of pressurization and reduced controllability of the airplane, accomplish the following:

A. Within four months after the effective date of this Ad, and thereafter at intervals not to exceed one year, perform magnetic particle inspections on the cargo door latch spool fitting attach bolts, or replace the non-Inconel cargo door latch spool fitting attach bolts with new bolts, in accordance with the Accomplishment Instructions for Phase 2 of McDonnell Douglas DC-9 Alert Service Bulletin A52-174, dated August 7, 1990 (hereafter referred to as "the Service Bulletin").

1. If a bolt does not pass the magnetic particle inspection, prior to further flight, replace it with a new bolt and seal in accordance with the Service Bulletin.

2. If a bolt passes the magnetic particle inspection, prior to further flight, reinstall the bolt and seal in accordance with the Service Bulletin.

B. The inspections required by paragraph A. of this AD are not required for Inconel bolts, part numbers RA21026-7-28, 77711-7-28, and 3D0031-7-28.

C. Within two years after the effective date of this AD, replace all non-Inconel cargo door latch spool fitting attach bolts with Inconel bolts, part numbers RA21026-7-28, 77711-7-28, or 3D0031-7-28, in accordance with the Accomplishment Instructions for Phase 3 of the Service Bulletin. Installation of Inconel bolts constitutes terminating action for the requirements of paragraph A. of this AD.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of the requirements of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on January 17, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1882 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-02-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes, Manufacturer's Fuselage Numbers 1 Through 379

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-10 series airplanes, which requires inspection and replacement of the cargo door latch spool fitting attach bolts. This proposal is prompted by a report of broken latch spool fitting attach bolts found on a Model DC-9 series freighter airplane. This condition, if not corrected, could result in inadvertent opening of the main cargo door in flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

DATES: Comments must be received no later than March 20, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 91-NM-02-Ad, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda D. Baker, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-121L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5231.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 91-NM-02-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On September 6, 1990, the FAA issued AD 90–19–12, Amendment 39–6735 (55 FR 38053, September 17, 1990), applicable to certain McDonnell Douglas Model DC–10 series airplanes, which requires a one-time torque test of cargo door latch spool fitting attach bolts, and retorquing or replacement of the bolts, if necessary. That action was prompted by a report of a broken cargo door latch spool fitting attach bolt found on a Model DC–9 series freighter airplane. Failure of the bolts was attributed to stress corrosion. The cargo door latch spool fitting attach bolts on the Model DC–10 are essentially the same as on the Model DC–9; thus, the same potential for failure exists for the Model DC–10. This condition, if not corrected, could result in inadvertent opening of a cargo door in flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

The torque test required by AD 90–19–12 ensures that flaws do not exceed a specified size. However, the torque test will not detect all flaws that could lead to failure; therefore, the FAA has determined that additional action is necessary.

The FAA has reviewed and approved McDonnell Douglas DC–10 Alert Service Bulletin A52–212, Revision 1, dated September 14, 1990, which describes procedures for magnetic particle and ultrasonic inspections of the cargo door latch spool fitting attach bolts, and replacement of the bolts, as necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require an initial magnetic particle inspection followed by repetitive magnetic particle or ultrasonic inspections of the cargo door latch spool fitting attach bolts, and replacement of the bolts, if necessary, in accordance with the service bulletin previously described. Additionally, this proposed rule would require that prior to November 1996, the H–11 bolts be replaced with Inconel bolts, which when accomplished, would be considered terminating action for the repetitive inspections required by this proposed rule.

The FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This coupled with a better understanding of human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed requirement to install Inconel bolts is in consonance with that policy decision.

There are approximately 379 McDonnell Douglas Model DC–10 series airplanes of the affected design in the worldwide fleet. It is estimated that 190 airplanes of U.S. registry would be affected by this AD, that it would take approximately 86 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of parts required for terminating action is estimated to be $10,682 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,683,180.

The regulations proposed therein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Admendment

According, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC–10 series airplanes, manufacturer's fuselage numbers 1 though 379, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent inadvertent opening of a cargo door in flight, a condition which could result in loss of pressurization and reduced controllability of the aircraft, accomplish the following:

A. Within 16 months after performing the torque test required by AD 90–19–12, Amendment 39–6735, perform magnetic particle inspections on the H–11 cargo door latch spool fitting attach bolts or replace the H–11 cargo door latch spool fitting attach bolts with new bolts and associated hardware in accordance with the Accomplishment Instructions for Phase 2 of McDonnell Douglas DC–10 Alert Service Bulletin A52–212, Revision 1, dated September 14, 1990 (hereafter referred to as "the Service Bulletin").

1. If a bolt does not pass the magnetic particle inspection, prior to further flight, replace it with a new bolt and seal in accordance with Figure 1 of the Service Bulletin.

2. If a bolt passes the magnetic particle inspection, prior to further flight, reinstall the bolt and seal in accordance with the Service Bulletin.

B. Within 16 months after the accomplishment of the inspections required by paragraph A. of this AD, and at intervals not to exceed sixteen months, replace the H–11 cargo door latch spool fitting attach bolts with new bolts and associated hardware or perform either a magnetic particle or ultrasonic inspection on the H–11 cargo door latch spool fitting attach bolts in accordance with the Accomplishment Instructions for Phase 2 of the Service Bulletin.

1. If a bolt does not pass the magnetic particle/ultrasonic inspection, prior to further flight, replace it with a new bolt and seal in accordance with Figure 1 of the Service Bulletin.

2. If a bolt passes the magnetic particle/ultrasonic inspection, prior to further flight, reinstall the bolt and seal in accordance with the Service Bulletin.

C. The inspections required by paragraphs A. and B. of this AD are not required for Inconel bolts, part numbers RA21026–7, 77711–7, and 3D0031–7.

D. Within 5 years after the effective date of this AD, replace all H–11 cargo door latch spool fitting attach bolts with Inconel bolts, part numbers RA21026–7, 77711–7, or 3D0031–7 (grip lengths as applicable per location as specified in Figure 1 sheets 3 and 4 of the Service Bulletin) in accordance with the Accomplishment Instructions for Phase 3 of the Service Bulletin. Installation of Inconel bolts constitutes terminating action for the requirements of paragraphs A. and B. of this AD.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of the requirements of this AD.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

All persons affected by this directive who have not already received the appriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HDR (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on January 17, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-1883 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 808

[Docket No. 89P-0314]

Exemption From Preemption of State and Local Hearing Aid Requirements; Vermont; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for the proposed rule exempting a Vermont statute concerning the sale of hearing aids from Federal preemption. FDA is extending the comment period for 60 days to assure adequate time for preparation of comments.

DATES: FDA is extending the comment period until March 1, 1991.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 30, 1990 (55 FR 45615), FDA published a proposed rule exempting a Vermont statute concerning the sale of hearing aids from Federal preemption. Interested persons were invited to submit comments by December 31, 1990. FDA has received a request for an exemption of the comment period. The request stated that the major public health considerations involved in the proposed rule necessitate an additional period to investigate the issues and prepare thoughtful comments.

FDA is extending the comment period for 60 days to assure adequate time for preparation of comments. Accordingly, FDA finds under section 520(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)) that there is good cause for such an extension. FDA believes that an extension or more than 60 days is unnecessary.

Interested persons may, on or before March 1, 1991, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 22, 1991.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-1899 Filed 1-25-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IL-816-89]

RIN 1545-AN97

Certificates of Compliance With Income Tax Laws by Departing Aliens

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains proposed Income Tax Regulations that exempt certain alien students, industrial trainees, and exchange visitors from the requirement of obtaining a certificate of compliance with income tax laws before departing the United States. This action is necessary because of changes to the applicable tax law made by the Technical and Miscellaneous Revenue Act of 1988. In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to these matters. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be received by March 29, 1991.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R, (INTL-816-89) rm 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Thomas L. Ralph of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:INTL:Br6 (INTL-816-89) (202-377-9059, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** implement section 1001(d)(2) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, 102 Stat. 3342, by adding a new § 1.6851-2T to 26 CFR part 1. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR part 1. For the text of the temporary regulations, see T.D. 8332, published in the Rules and Regulations portion of this issue of the **Federal Register**.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553 (b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility

Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel on Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and nine copies) to the Internal Revenue Service. In addition, the Internal Revenue Service is interested in receiving written comments on the certificates of compliance with United States income tax laws program in general. All comments will be available for public inspection and copying. A public hearing will be held upon written request by any person who submits written comments on these proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register** for public inspection and copying. A public hearing will be held upon written request by any person who submits written comments on these proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Thomas L. Ralph of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects in 26 CFR 1.6851–1 Through 1.6851–3

Income taxes, Administration and procedure, Termination assessments.

Proposed Amendments to the Regulations

The temporary regulations, T.D.8332, published in the Rules and Regulations portion of this issue of the **Federal Register**, are hereby also proposed as final regulations under section 6851 of the Internal Revenue Code of 1986.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91–1832 Filed 1–25–91; 8:45 am]

BILLING CODE 4830–01–M

POSTAL SERVICE

39 CFR Part 111

Authorized Independent Audits

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposal is to amend section 425.52 of the Domestic Mail Manual to require publishers to notify original entry postmasters and authorized independent audit bureaus by January 31st of each year if they intend to have an audit bureau perform the required verification for their publications. Also, section 425.52 would be amended to shift certain administrative functions concerning these verifications from the Office of Classification and Rates Administration to the original entry postmasters.

DATES: Comments must be received on or before February 27, 1991.

ADDRESSES: Written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–5903. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Martin L. Cohen, (202) 268–5169.

SUPPLEMENTARY INFORMATION: In accordance with Domestic Mail Manual section 425.4, postmasters of original entry post offices perform verifications of publications on a periodic basis to ensure that each publication remains eligible for its second-class authorization, pays the proper amount of postage, and complies with other second-class requirements. A publisher may request an authorized independent audit bureau to perform the required postal verification. The Postal Service generally accepts the findings of the audit bureau and does not verify the circulation records of a publication in the year in which such a private audit is performed.

For planning purposes, and in order to ensure the most efficient use of mailing requirements personnel, it is vital for postal managers to know, as early as possible, how many verifications will have to be performed by postal employees. Current procedures do not ensure that accurate and timely information is available to the Postal Service. For instance, many publishers do not notify the Postal Service or the audit bureau of their desire to have an audit bureau perform the postal verification until the bureau's personnel come to the publication for other purposes. Other publishers may schedule a private audit bureau to perform a postal verification and later cancel the verification.

One purpose of this proposal is to amend section 425.52 of the Domestic Mail Manual to require publishers to provide timely and accurate notice if they intend to have an authorized independent audit bureau perform the verification for their publications. This notice would be given to both the original entry postmaster and the independent audit bureau by January 31 of each year. If such notification is not made by a publisher, the audit required for that year will be performed by the original entry postmaster. Any postal audits not scheduled by the end of January will not be accepted by the Postal Service.

Presently, audit bureaus coordinate the audits through the Office of Classification and Rates Administration (OCRA) in Postal Service headquarters. That Office advises postmasters of any publications having original entry at their offices that will be audited by an independent audit bureau. This procedure has required OCRA to perform many administrative functions that could be more efficiently handled at original entry post offices. Thus, it is also being proposed that section 425.52 be amended to state that the audit bureaus will coordinate their verifications with the postmasters at the post offices where original second-class mail privileges have been authorized for the publications.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Amend 425.52 of the Domestic Mail Manual to read as follows:

PART 425 MAINTENANCE AND VERIFICATION OF PUBLISHER RECORDS

* * * * *

425.5 Verification Procedures.

* * * * *

425.52 Requests for Audit Bureau Verification. Publishers who desire to have verifications performed by one of the authorized independent audit bureaus must make their request directly to the audit bureau by January 31 each year and advise the original entry postmaster accordingly. The audit bureau will then coordinate the verifications with the postmasters at the post offices where original second-class mail privileges have been authorized for the publications. Postmasters may forgo verification of those publications for the year verified by the audit bureau. If a publisher has not advised the original entry postmaster by January 31 that an independent audit bureau will perform the verification that year, the Postal Service will perform the verification and will not accept the results of a verification performed by an independent audit bureau.

An appropriate amendment to 39 CFR part 111.3, to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91-1969 Filed 1-25-91; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-4, RM-7588]

Radio Broadcasting Services; Eagle Grove, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Iowa Inspirational Radio seeking the allotment of Channel 264C3 to Eagle Grove, Iowa, as the community's first local FM service. Channel 264C3 can be allotted to Eagle Grove in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 264C3 at Eagle Grove are North Latitude 42-39-54 and West Longitude 93-54-18.

DATES: Comments must be filed on or before March 15, 1991, and reply comments on or before April 1, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James M. Weitzman, Esq., Kaye, Scholer, Fierman, Hays & Handler, 901-15th Street, NW., suite 1100, Washington, DC. 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MM Docket No. 91-4, adopted January 10, 1991, and release January 22, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or count review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-1960 Filed 1-25-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-3, RM-7589]

Radio Broadcasting Services; Reedsport, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Paul C. Bjornstad seeking the allotment of Channel 258A to Reedsport, Oregon, as the community's second local FM service. Channel 258A can be allotted to Reedsport in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 258A at Reedsport are North Latitude 43-42-00 and West Longitude 124-06-12.

DATES: Comments must be filed on or before March 15, 1991, and reply comments on or before April 1, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Margaret L. Tobey, Esq., Sidley & Austin, 1722 Eye Street NW., Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-3, adopted January 10, 1991, and released January 22, 1991.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-1961 Filed 1-25-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-496, RM-6971]

Radio Broadcasting Services; Georgetown and Myrtle Beach, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission, at the request of Coastline Communications of Carolina, Inc., licensee of Station WBPR, Channel 249C2, Georgetown, South Carolina, dismisses a request to reallot Channel 249C2 from Georgetown to Myrtle Beach, South Carolina, and to modify the license for Station WBPR to specify Myrtle Beach as the community of license. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-496, adopted January 10, 1991, and released January 23, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-1962 Filed 1-25-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Child Restraint Systems; Petition for Rulemaking; Denial

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Petition for Rulemaking; denial.

SUMMARY: The purpose of this notice is to announce the denial of a rulemaking petition to amend Standard No. 213, *Child Restraint Systems*, to require "a special warning on each package containing a toddler car seat * * * stating that these seats must be evaluated for utilization in minivans lacking headrests or shoulder restraints." The seats the petition refers to are the booster child restraints. Because there is no indication of a significant safety need, and because labeling could result in the installation of child restraints in seating positions which could decrease the overall safety benefit associated with child restraints, the petition is denied.

FOR FURTHER INFORMATION CONTACT: Mr. George Mouchahoir, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366-4919.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 213, *Child Restraint Systems*, specifies performance and labeling requirements for child restraints to reduce the number of children killed or injured in motor vehicle crashes and in aircraft. Data on vehicle crashes show that child restraints are highly effective in reducing a child's risk of death or serious injury in a crash.

On April 16, 1990, Ms. Karen Legath petitioned this agency to amend Standard No. 213 to require "a special warning on each package containing a toddler car seat (picture enclosed), stating that these seats must be evaluated for utilization in minivans lacking headrests or shoulder restraints." (The picture enclosed by Ms. Legath is of a device commonly referred to as a "booster seat.") Ms. Legath is concerned that the use of toddler booster seats in some minivans could result in "serious head, neck, and spinal cord injuries, as there is nothing to support the weight of their heads moving forward and backward upon impact." It appears that the petitioner intends that the evaluation be done by prospective purchasers by comparing the height of their child and the height of the seat back in their vehicle(s).

Shoulder Restraints

With regard to shoulder restraints, Standard No. 213 requires that child restraint systems meet specific performance requirements when only a lap belt is used. Accident data show that child restraints meeting current requirements already provide a high level of child protection without the use of shoulder restraints. The agency is not aware of any data, nor does Ms. Legath refer to any data, that would indicate a safety benefit from requiring all booster seat packages to be labeled with consumer information concerning the use of lap/shoulder belts.

Currently, Federal standards require a statement in both vehicle owner's manuals (S6(b) of Standard No. 210) and child restraint instruction sheets (S5.6.1.1 of Standard No. 213) "that, according to accident statistics, children are safer when properly restrained in the rear seating positions than in the front seating positions." Further, a majority of vehicles on the road do not have shoulder restraints in rear seating positions. The agency is concerned that the warning label requested by Ms. Legath could result in some parents placing their child in a booster seat in the front vehicle seat with a lap/shoulder belt. In this circumstance, it is unclear whether the increased crash risk exposure of the front seat position would overcome any advantage offered by the use of the shoulder belt. The agency is concerned that, because this option could reduce the overall safety benefit of child restraints, a greater number of more serious injuries would result from the attempt to avoid a relatively few potential whiplash injuries, which are rarely serious in nature or life-threatening. Further, even as more rear outboard seating positions of vehicles on the road have shoulder restraints, the safest position for the child restraint (the center rear position) will not be equipped with shoulder restraints.

Headrests

With regard to headrests, Section S5.2.1 of the standard provides restraint against rearward motion of a child's head by establishing a minimum height for the child restraint system seat back. Ms. Legath's petition is directed at child restraints excluded from this requirement. A manufacturer can choose to be excluded from Section S5.2.1 by certifying that a horizontal plane, tangent to the top of the standard seat

assembly, is above a specified point on the dummy's head when the dummy is positioned in the child restraint. This provision of the standard allows for manufacture and sale of child restraint systems commonly referred to as "booster seats".

The agency recognizes that booster seats may not provide head restraint over the range of crashes if a child's head extends above the vehicle seat. However, real world crash data do not indicate that this situation results in significant numbers of casualties. Analysis of child fatalities when the child is in a child seat indicates that only 14 fatalities occurred to children under 6 years in rear impact crashes in 1989. Of these, only 3 fatalities occurred in light trucks/vans, the vehicles which would be affected by Ms. Legath's petition. Although no quantitative data are available, these relatively low fatality totals suggest that the number of non-fatal whiplash type injuries would also be infrequent. In addition, these casualties would not have been reduced with the requested amendment.

The agency is also concerned that consumer response to labels informing consumers of this potential problem could reduce the overall benefits of child restraints. Consumers may respond to the warning in a number of ways. First, they may not purchase a booster or toddler seat because of the warning. Second, they may stop using the child restraint once a child's head goes over the seatback. Third, they may place the child restraint in the front seat, as these seats generally have a greater seat back height. The agency is concerned that, because these consumer actions would reduce the proven benefits of child restraints, a greater number of more serious injuries would result.

Conclusion

There are no data showing a significant safety problem which could be reduced or avoided by the requested labeling. In addition, the agency is concerned that the requested labeling could induce motorists to take actions which would actually lower the safety benefits of child restraints. This could result in an increase in fatalities and injuries to children. Since child restraints are already required to be labeled with a great amount of information, the agency believes that any new labeling should be justified by a significant safety benefit. Because there is no indication that the requested warning would result in a significant safety benefit, the petition is denied.

Issued on January 18, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-1850 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 88-22; Notice 02]

Federal Motor Vehicle Safety Standards; Flammability of Interior Materials; Termination of Rulemaking Proceeding

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The purpose of this notice is to announce the termination of a rulemaking proceeding to amend Standard No. 302, *Flammability of Interior Materials*, to: (1) Modify the types of flammability tests used and consider using portions of the FAA regulations on flammability; (2) extend coverage to other vehicle classifications; and, (3) expand coverage to include the engine compartment and other areas of the vehicle. The agency sent a letter to the petitioner, Horkey & Associates Inc., notifying them that the petition was granted on May 4, 1990. Subsequently, the agency reviewed data on fire related crashes, estimated cost increases due to possible amendments to Standard No. 302, and estimated potential benefits due to increased flammability resistance. Because the agency has determined that the proposed amendments would significantly increase costs and that those costs would be greatly disproportionate to the potential safety benefits, this rulemaking action is terminated.

FOR FURTHER INFORMATION CONTACT: Dr. William J.J. Liu, NRM-12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: (202) 366-4923.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 302, *Flammability of Interior Materials*, specifies flammability requirements for materials used in the occupant compartment of motor vehicles. The standard is intended "to reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes." 49 CFR 571.302, paragraph S2. The standard seeks to allow the driver time to stop the vehicle, and if necessary for occupants to leave it, before injury occurs. The standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

Standard No. 302 has not been revised since it first went into effect on September 1, 1972. The standard's current test procedure is a horizontal burn test for testing flame spread properties. The standard limits the burn rate to 4 inches per minute for materials used in the occupant compartment and all interior materials that are designed to absorb impact energy in the event of a crash.

Different burn tests and limit of burn rates were considered during the development of the standard. For example, a vertical burn test with a zero burn rate (self-extinguishable) and horizontal burn tests with different burn rates were considered. The burn rate limit selected by the agency was based in part on compromises between the goals of flame resistance and energy absorption and between the cost of meeting Standard No. 302 and of meeting the crashworthiness standards that had been issued for those motor vehicles but which were not yet in effect at the time Standard No. 302 was issued. (See, 36 FR 289, January 8, 1971.)

On March 13, 1990, Edward J. Horkey, on behalf of Horkey & Associates Inc., petitioned NHTSA to revise Standard No. 302, since the standard "is now approximately eighteen years old and much more information is available today to cause an update." The petition requested amendment of Standard No. 302 to: (1) Modify the types of flammability tests used and consider using portions of the FAA regulation on flammability; (2) extend coverage to other vehicle classifications; and, (3) expand coverage to include the engine compartment and other areas of the vehicle.

After a preliminary review, on May 4, 1990, the agency notified Mr. Horkey that the petition was granted. The agency believed that granting the petition would give NHTSA the opportunity to re-examine Standard No. 302, based on the elapsed time since the standard first went into effect and the increased knowledge on materials as well as advancement in flame retarding technologies.

Modify Flammability Tests

The petition requested that the agency consider modifying the types of flammability tests used and consider using portions of the FAA regulations on flammability. As stated previously, the agency considered different burn rate tests when developing the standard. The

currently required burn rate test was based on economic and technical considerations. Despite improvements in technology since the standard was developed, agency analysis of crash data and the increases in vehicle costs due to material changes indicated minimal potential safety benefits compared to high expected costs.

The Fatal Accident Reporting System (FARS) shows that, in 1989, 1,613 motor vehicle occupants suffered fatal injuries in vehicles in fire related accidents. Of these, 969 (60.1%) were passenger car occupants. When fire is considered "the most harmful event" in vehicles in fire related accidents, 529 occupants suffered fatal injuries, and 300 (56.7%) were in passenger cars. (It should be noted that "the most harmful event" is coded in FARS for each vehicle, rather than for each occupant. Thus, for example, if there were two fatally-injured occupants in one vehicle, there is a possibility that one of the occupants received their fatal injuries from other than the listed "most harmful event." Considering this possibility it was estimated that the range of passenger car occupants that received fatal injuries from fire was 222 to 450.) The FARS data do not indicate the source of the fire, therefore it cannot be determined how many occupants were injured in fire related accidents of the type Standard No. 302 was designed to prevent.

The increased costs due to a possible amendment to Standard No. 302 for the interior of passenger cars would be dependent upon the selected performance test. However, responses received from the Advance Notice of Proposed Rulemaking (ANPRM) for school bus flammability improvements, indicated that increases in seat assembly costs for flame retardant materials range from $15 to $35 per seat. (53 FR 44627, November 4, 1988; docket #88-22.) Using the cost of two complete seats and considering costs for flammability improvements for other interior components in a passenger car, the agency estimates that the costs for amending Standard No. 302 to improve flammability performance in passenger cars would be in the range of $60 to $140 per vehicle.

The agency has no information on which to base an estimate of the effectiveness of flammability improvements on fire fatalities. However, based on effectiveness values used for other comparable safety measures, flammability improvements would likely save no more than 5% to 15% of fire fatalities. Based on a production of 10 million passenger cars each year, and on the estimated values of $60 to $140 per vehicle, the estimated annual fleet costs per year would be $600 million to $1.4 billion.

Based upon the above cost estimates, coupled with the minimal potential safety benefits, the agency does not believe rulemaking should proceed.

Extend Coverage to Other Vehicle Classifications

The petitioner also requested extending Standard No. 302 to other vehicle classes, specifically motor homes and recreational vehicles. Unless the motor home or recreational vehicle is drawn by another vehicle, it is classified as a multipurpose passenger vehicle and hence is already covered by Standard No. 302. Motor homes or recreational vehicles drawn by other vehicles are classified as trailers. While trailers are not covered by Standard No. 302, many States prohibit passengers from occupying them on the highway. Therefore, these vehicles do not appear to have a high potential for fire related injuries of the type Standard No. 302 is designed to prevent. The agency concludes that there is no evidence of a significant safety hazard that would justify extending Standard No. 302 as the petition requests.

Expand Coverage to the Engine Compartment

The petitioner's final request is to expand the standard's coverage to include the engine compartment and other areas of the vehicle. Specifically, the petition states that "(t)he average car today has at least thirteen holes in the so-called firewall. Some are closed with rubber gaskets or plastics, such as heater frames. All of these materials burn vigorously and do not provide any fire barrier." While it is possible that a large fuel-fed fire could generate enough heat to burn through the heater frame or the air conditioner frame from the engine compartment to the occupant compartment, NHTSA's Office of Defects Investigation does not have any complaints relating to this matter.

Again, the current standard is designed for fires originating in the interior of the vehicle from sources such as matches or cigarettes. If the standard were expanded to include other areas of the vehicle, it would be necessary to include fuel-fed fires and to develop new test methods. This would likely result in a substantial cost increase for the vehicle. These costs would not be justified if the agency cannot show a safety need to extend Standard No. 302 to other areas of the vehicle.

Conclusions

Agency analysis indicates minimal potential safety benefits from amending Standard No. 302 as this petitioner requests, compared to high expected costs. Because of the substantial costs these amendments would impose, the agency concludes that there is no reasonable possibility that a rule amending Standard No. 302 would be issued at the conclusion of this rulemaking proceeding. Therefore, this proceeding is terminated.

Issued on January 22, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-1849 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 56, No. 18
Monday, January 28, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Renewal of Agricultural Advisory Committees for Trade

ACTION: Notice.

Notice is hereby given that the Secretary of Agriculture, after consultation with the United States Trade Representative, has renewed the following advisory committees: Agricultural Policy Advisory Committee for Trade and ten separate Agricultural Technical Advisory Committees for Trade in: Cotton, Dairy Products, Fruits and Vegetables, Grain and Feed, Livestock and Livestock Products, Oilseeds and Products, Poultry and Eggs, Processed Foods, Sweeteners, and Tobacco.

The purpose of these committees is to provide advice to the Secretary and the U.S. Trade Representative with respect to the trade policy of the United States pursuant to section 135(c) of the Trade Act of 1974 (Pub. L. 93–618) as amended. Meetings of these committees will be open only to members of the committees in accordance with matters listed in section 552b(c) of title 5 of the United States Code unless otherwise determined.

The renewal of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974, as amended.

Issued at Washington, DC this 22nd day of January 1991.

Adis M. Vila,

Assistant Secretary for Administration.

[FR Doc. 91–1948 Filed 1–25–91; 8:45 am]

BILLING CODE 3410–10–M

Agricultural Marketing Service

[TR–91–01]

Program Continuation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice Inviting Applications for Fiscal Year 1991 Grant Funds under the Federal-State Marketing Improvement Program (FSMIP).

SUMMARY: Notice is hereby given that the Federal-State Marketing Improvement Program was allocated $1,250,000 in the Federal Budget for Fiscal year 1991. Funds rmain available for this program. States interested in obtaining funds under the program are invited to submit proposals for marketing studies. Only State Departments of Agriculture or State Agencies are eligible for these funds.

DATES: Applications will be accepted until September 1991.

ADDRESSES: Proposals may be sent to Dr. Harold S. Ricker, Assistant Director, Federal-State Marketing Improvement Program, Transportation and Marketing Division, AMS, USDA, Room 2957–South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Dr. Harold S. Ricker, (202) 447–2704.

SUPPLEMENTARY INFORMATION: The Federal-State Marketing Improvement Program is authorized under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. section 1621 *et seq.*). The program is a matching fund program designed to assist State Departments of Agriculture or State Agencies in conducting feasibility studies related to the marketing of agricultural products. Organizations interested in conducting a marketing study should contact their State Department of Agriculture Marketing Division to discuss their proposal. Mutually accepted proposals must be submitted through the State Office and be accompanied by a completed SD 424 and detailed budget statement. FSMIP funds may not be used for advertising or the purchase of equipment and facilities. Guidelines may be obtained from your State Department of Agriculture or the above AMS contact.

In terms of objectives, the States are encouraged to submit proposals for: (1) Studies to identify new crops, markets, and marketing systems for agricultural products, both domestically and internationally; (2) studies to improve efficiency of the marketing system to enhance competitiveness and profitability; and, (3) studies to help maintain product quality through new handling, processing, and distribution techniques. Proposals addressing other marketing objectives will also receive consideration.

The Federal-State Marketing Improvement Program is listed in the "Catalog of Federal Domestic Assistance" under No. 10.156 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964 which bars discrimination in all Federally assisted programs.

Done at Washington DC this 22 day of January, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–1930 Filed 1–25–91; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Dans Environmental Impact Statement, Dans Compartment, Humboldt and Del Norte Counties, CA; Notice of Intent

AGENCY: Department of Agriculture, Forest Service.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the USDA, Forest Service will prepare the Dans Environmental Impact Statement which will analyze management of the timber resources within the Dans Compartment of the Orleans Ranger District, Six Rivers National Forest, Humbolt and Del Norte Counties, California. The Forest Service hereby gives notice of the environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Any comments that are to be considered in the DEIS (Draft Environmental Impact Statement) must be received by Febuary 28, 1991.

ADDRESSES: Written comments and suggestions concerning the analysis should be sent to John Larson, District Ranger, Orleans Ranger District, Drawer B, Orleans CA, 95556.

FOR FURTHER INFORMATION CONTACT: Gene Graber, Timber Management Officer, Orleans Ranger District, Drawer B, Orleans, CA, 95556, phone (916) 627–3291.

SUPPLEMENTARY INFORMATION: The project objectives are to harvest between 8 and 13 MMBF of sawtimber in such a way that maintains or enhances the longterm productivity of the existing ecosystems. The Dans Compartment encompasses approximately 7,000 acres in Townships 11 and 12 North, Range 4 East, Humbolt Base Meridan. This compartment is adjacent to Bluff Creek, an important anadromous fishery, and encompasses all of Deer Lick Creek, Dans Creek, and Fish Creek. Prior timber management has resulted in the regeneration of almost 1100 acres since 1968 and the construction of many miles of road. Opportunities for the enhancement of fisheries, unique wildlife habitats, and recreation will be considered. A wide range of alternatives will be considered. One of these will be No Action. Other alternatives will consider varying amounts of timber harvesting, road construction, and resource enhancement projects.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7) Federal, State, and local agencies, local residents, and other individuals or organizations who may be interested in or affected by the decision are hereby invited to participate in the scoping process. This process will be used to:

1. Identify the issues to be addressed.
2. Identify those issues to be analyzed in depth.
3. Eliminate insignificant issues or those which have been covered by previous environmental review.
4. Identify potential environmental effects of the proposed action and the alternatives.

The proposed scoping process includes:

1. Written contact with local residents of Orleans, potential timber purchasers, and organizations and agencies that have expressed prior interest in timber management decisions on the Orleans Ranger District.
2. Posting of this Notice of Intent on the bulletin boards in Orleans, CA, and publishing this Notice in the Kourier newspaper, Willow Creek, CA.
3. A public meeting will take place at 1:00 p.m., Wednesday, February 20th in the conference room of the Orleans Ranger Station located on Ishi Pishi Road near Highway 96 in Orleans, California.

James L. Davis, Jr., Forest Supervisor, Six Rivers National Forest, is the responsible official.

The analysis is expected to take about 3 months. The DEIS (Draft Environmental Impact Statement) is expected to be filed with the EPA (Environmental Protection Agency) and be made available for public review by May 1, 1991.

At that time EPA will publish a notice of availability of the DEIS in the **Federal Register**. The comment period on the DEIS will be 45 days from the date that EPA's Notice of Availability appears in the **Federal Register**. It is very important that those interested in the management of the Dans Compartment participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* versus *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived or dismissed if not raised until after completion of the FEIS (Final Environmental Impact Statement), *City of Angoon* v. *Hodel*, 803 F. 2nd 1016, 1022, (9th Cir. 1986) and *Wisconsin Heritages, Inc.*v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period ends for the DEIS, the comments received will be analyzed and considered by the Forest Service in the preparation of the FEIS. The FEIS is scheduled to be completed by September 1991. In the FEIS the Forest Service is required to respond to the comments received (40 CFR 1503.4) The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal under 36 CFR Part 217.

Dated: January 15, 1991

Jack R. Kahl,

Resource Staff Officer, Six Rivers National Forest.

[FR Doc. 91–1906 Filed 1–25–91; 8:45 am]

BILLING CODE 3410–11–M

Pilot Creek Environmental Impact Statement, Six Rivers National Forest, Humboldt County, CA; Notice of Intent

AGENCY: Department of Agriculture, Forest Service.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the USDA Forest Service will prepare the Pilot Creek EIS (Environmental Impact Statement) which proposes timber management in the Pilot and Torrey Compartments located on the Mad River Ranger District, Six Rivers National Forest, Humboldt County, California. The Forest Service invites written comments on this proposal. A full environmental analysis will be conducted. The Draft EIS will be published in January 1992, and the Final EIS will be available for review in May 1992.

DATES: To be most helpful, interested and affected individuals should make their input by March 21, 1991.

ADDRESSES: Submit written comments and suggestions to Patricia Visser, District Ranger, Mad River Ranger District, Star Route Box 300, Bridgeville, California 95526.

FOR FURTHER INFORMATION CONTACT: Roger Moore, Planning Forester, Mad River Ranger District, Star Route Box 300, Bridgeville, California 95526, phone 707–574–6233 or Julie Ranieri, Environmental Coordinator, Six Rivers National Forest, 500 Fifth St., Eureka, California 95501–1033, phone 707–442–1721.

SUPPLEMENTARY INFORMATION: The Pilot Creek EIS includes all of the Pilot Compartment and a portion of the Torrey Compartment. This planning area is located in the upper Pilot Creek drainage. Pilot Creek flows into the Mad River. The proposed harvesting in the planning area was previously analyzed under the Torrey EA (Environmental Assessment) that was signed January 31, 1984. The following new issues have been identified since the Torrey EA which warrant the preparation of an EIS: (a) cumulative watershed impacts due to the 1,800 acre Blake Fire, the Blake Fire Salvage logging and additional timber sales in the Pilot Creek drainage, (b) potential fragmentation of an ecological area of

contiguous mature conifer stands, (c) disturbance of the essentially roadless character of the planning area, and (d) potential effects to threatened and sensitive wildlife species.

In preparing the EIS, the Forest Service will identify and consider a wide range of alternatives. One of these will be "No Action". Other alternatives will consider various management options.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the Draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The District Ranger will hold two public scoping meetings at the Community Hall located across the street from the Southern Trinity High School on County Road 511, Mad River, California, at 2 p.m. and 7 p.m., March 21, 1991.

James L. Davis, Jr., Forest Supervisor, Six Rivers National Forest, Eureka, California, is the responsible official.

The Draft EIS is expected to be filed with the EPA (Environmental Protection Agency) and to be available for public review in January 1992. At that time EPA will publish a notice of availability of the Draft EIS in the **Federal Register.**

The comment period on the Draft EIS will be 45 days from the date the EPA's Notice of Availability appears in the **Federal Register.** It is very important that those interested in the management of the Pilot and Torrey Compartments participate at that time. To be the most helpful, comments on the Draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of a Draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the Final EIS, *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period for the Draft EIS, the comments received will be analyzed and considered by the Forest Service in the preparation of the Final EIS. The Final EIS is scheduled to be completed in May 1992. In the Final EIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Dated: January 15, 1991.

Jack R. Kahl,

Resource Staff Officer.

[FR Doc. 91-1907 Filed 1-25-91; 8:45 am]

BILLING CODE 3410-11-M

Stikine Area Communications Site Analysis; Stikine Area, Tongass National Forest Petersburg Ranger District, Petersburg, Alaska; Notice of Intent To Prepare and Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) to determine whether any new communications sites are needed on the Stikine Area, Tongass National Forest. For sites where a need is identified and a communications facility has already been proposed, the EIS will also contain site-specific information required to approve or disapprove a communications site plan for construction and operation of a facility.

The EIS will disclose the effects of the two decisions required to permit a facility. (1) The first decision, to be made by the Alaska Regional Forester, is whether to designate additional communications sites, including mitigation measures. This would require amendment of the Tongass Land Management Plan. (2) The second decision, to be made by the Stikine Area Forest Supervisor, is the authorizing of a special use permit for construction and operation of a communications facility on a designated site, including location and design of the facility, and mitigation measures.

The alternatives will range from no-action, meaning no additional sites would be designated to, designation of a number of sites by the Regional Forester. On sites where the need is identified and a facility has been proposed, the range of alternatives will also include, for the Forest Supervisor's decision, a no-action alternative and variations in location and design of the facility.

All organizations and individuals interested in the decisions are invited to participate in the scoping process. Scoping is intended to identify the extent and nature of potential sites and proposed projects, and to identify issues to be analyzed in the EIS. This Notice of Intent begins the scoping process, which will end February 15, 1991. At the time of this notice, a scoping letter is being mailed to interested groups, organizations, and members of the public. Following the initial mailing, additional contacts may be arranged to provide opportunities for review and comments from interested parties.

The responsible official for the site designation decision and amendment of the Tongass Land Management Plan is Michael A. Barton, Regional Forester, Alaska Region. The responsible official for decisions pertaining to communications site planning and special use permits is Ronald R. Humphrey, Forest Supervisor, Stikine Area of the Tongass National Forest.

The analysis is expected to take four months. The Draft EIS should be available for public review by May 1991. The Final EIS is scheduled to be completed by August 1991.

Questions and written comments and suggestions concerning the analysis should be sent to Mark Hummel, Team Leader, USDA Forest Service, P.O. Box 309, Petersburg, AK 99833 (phone 907/772-3841).

Dated: January 9, 1991.

Michael A. Barton,

Regional Forester.

Dated: January 4, 1991

Ronald R. Humphrey

Forest Supervisor.

[FR Doc. 91-1908 Filed 1-25-91; 8:45 am]

BILLING CODE 3410-11-M

Rural Telephone Bank

Regular Meeting of the Board of Directors

AGENCY: Rural Telephone Bank, USDA.

TIME AND DATE: 1 p.m. Wednesday, February 6, 1991, and 9:30 a.m., Thursday, February 7, 1991.

PLACE: U.S. Department of Agriculture, room 104-A Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Blaine D. Stockton, Jr., Assistant Secretary, Rural Telephone Bank (202) 382-9552.

Agenda

I. Call to Order
II. Election of Chairperson
III. Approval of September 27, 1990, Minutes
IV. Loans Approved in Fiscal Year 1990 and First Quarter 1991
V. Financial Statements for Fiscal Year 1990 and First Quarter 1991
VI. Long-term Interest Rate Determination for Funds Advanced During Fiscal Year 1990
VII. Report on Requests for Waiver of Prepayment Premium
VIII. Farm Bill Provisions Affecting Telephone and RTB Loan Programs
IX. Proposed By-law Revisions
X. Federal Credit Reform Act
XI. Such Other Business as May Properly Come Before the Board.
XII. Adjourn.

Dated: January 22, 1991.

Blaine D. Stockton, Jr.,

Assistant Secretary.

[FR Doc. 91-1888 Filed 1-25-91; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-702]

Stainless Steel Butt-Weld Pipe and Tube Fittings From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from the petitioner and the respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on stainless steel butt-weld pipe and tube fittings ("SSPFs") from Japan. The review covers one manufacturer, Nippon Benkan Kogyo, K.K. ("Benkan"), an exporter of this merchandise to the United States for the period from March 1, 1989 through February 28, 1990. As a result of the review, the Department preliminarily determines that a margin of 6.97 percent exists.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Bruce Harsh or Linda L. Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 9787) the antidumping duty order on stainless steel butt-weld pipe fittings from Japan. On March 29, 1990, Benkan, the respondent, requested an administrative review of the antidumping order. We published a notice of initiation of the antidumping administrative review for the period March 1, 1989 through February 28, 1990 on April 27, 1990 (55 FR 17792). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of stainless steel butt-weld pipe and tube fittings from Japan. These fittings are used in piping systems for chemical plants, pharmaceutical plants, food processing facilities, waste treatment facilities, semiconductor equipment applications, nuclear power plants, and other applications.

During the initial review period and until December 31, 1988, such merchandise was classifiable under item 610.8948 of the Tariff Schedules of the United States Annotated ("TSUSA"). Since January 1, 1989, the merchandise is classifiable under HTS item number 7307.230000. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one exporter of stainless steel pipe and tube fittings from Japan to the United States during the period from March 1, 1989 through February 28, 1990.

United States Price

In calculating the United States price, the Department used purchase price as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the delivered price to unrelated purchasers in the United States. For purchase price sales, we made deductions for foreign inland freight, U.S. inland freight, U.S. customs duty, U.S. brokerage fees, ocean freight, marine insurance, foreign brokerage fees, and, where applicable, cash discounts. No other adjustments were claimed or allowed. We determined that the date of sale was the date of purchase order for the merchandise sold to the United States.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a reasonable basis for comparison. The Department made deductions for inland freight, cash discounts, and rebates. We made adjustments, where applicable, for differences in packing costs, and credit expenses. For U.S. sales where we had no home market sales of identical merchandise, the Department used home market sales of similar merchandise. The Department made adjustments for physical differences in wall thickness and nominal size.

We made currency conversions in accordance with § 353.60 of our regulations. We made all currency conversions using the daily exchange rates certified by the Federal Reserve Bank of New York.

Preliminary Results of Review

As a result of our comparison of the United States price to foreign market

value, we preliminarily determine that a margin of 6.97 percent exists for Benkan for the period of review.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above for Benkan. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after February 28, 1990, and who is unrelated to the reviewed firm, a cash deposit of 6.97 percent will be required.

These deposit requirements are effective for all shipments of stainless steel butt-weld pipe and tube fittings from Japan, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Commerce Department's regulations.

Dated: January 18, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–1949 Filed 1–25–91; 8:45 am]

BILLING CODE 3510-DS-M

President's Export Council; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of a closed meeting.

SUMMARY: The President's Export Council is holding a meeting to discuss how it should organize based on issues of current importance in international trade. Briefings and discussions will cover trade performance and promotion, foreign market conditions, trade negotiating strategies, and relations with our trading partners, including the Soviet Union, Eastern Europe, Pacific Rim countries and Mexico, as well as other sensitive matters properly classified under Executive Order 12356. The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. export trade.

A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 552b (c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce (202) 377–4217.

DATES: February 5, 1991, from 9:30 a.m.—2 p.m.

ADDRESSES: Main Commerce Building, room 5843, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mrs. Wendy H. Smith, Director, President's Export Council, room 3215, Washington, DC 20230.

Dated: January 21, 1991.

Wendy H. Smith,

Staff Director, and Executive Secretary, President's Export Council.

[FR Doc. 91–1887 Filed 1–25–91; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Intent To Evaluate; Coastal Resource Management Programs

AGENCY: National Oceanic and Atmospheric Administration, Commerce. National Ocean Service. Office of Ocean and Coastal Resource Management.

ACTION: Corrected notice of intent to evaluate.

Notice is hereby given that the National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management will not evaluate the Virgin Islands Coastal Management Program during the second quarter of fiscal year 1991, as previously published in the **Federal Register** on December 19, 1990, Doc. 90 29662.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: January 18, 1991.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Western Pacific Crustacean Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of approval of Amendment 6 to the fishery management plan for crustacean fisheries of the western Pacific region.

SUMMARY: NOAA issues this notice that Amendment 6 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP) has been approved. Amendment 6, which defines overfishing in compliance with national standards 1 and 2 of the Magnuson Fishery Conservation and Management Act (Magnuson Act), was submitted by the Western Pacific Fishery Management Council (Council) for Secretarial review on October 16, 1990. No rulemaking is involved with this action.

EFFECTIVE DATE: January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Southwest Region, (213) 514–6660, or Alvin Katekaru, NMFS, Pacific Area Office, Honolulu, Hawaii, (808) 955–8831.

SUPPLEMENTARY INFORMATION: A notice of availability of Amendment 6 was published in the **Federal Register** on November 2, 1990 (55 FR 46236), and comments were invited until December 20, 1990.

The guidelines to the national standards (50 CFR part 602) attendant to the Magnuson Act were revised in 1989 (54 FR 30711 *et seq.*) to require the Councils to amend their fishery management plans to include definitions of overfishing for their respective fisheries. The definition is intended to provide an objective and measurable standard for determining whether any species or stock under management has been overfished such that corrective

action must be taken to control fishing mortality.

For the crustacean fisheries in the western Pacific, the Council defined overfishing of crustacean stocks of slipper and spiny lobster as the point where the spawning potential ratio (SPR) of each stock equals 0.2 or below. The SPR is a measure of the relative reproductive potential of the stock and is calculated as the ratio of the spawning stock biomass per recruit (SSBR) of a fished population to the SSBR of the unfished population. Thus, spiny lobster or slipper lobster would be overfished if the respective SPR were equal to or less than 0.2. The analysis in Amendment 6 demonstrates that the size limits and other measures governing the fishery were selected to ensure that the SPR will remain well above the 0.2 threshold level.

The FMP includes a requirement for an annual report that summarizes the best scientific information available on the biological condition of crustacean resources. The report will contain an overview of the status of crustacean stocks relative to the overfishing threshold and any significant trends in the fishery that may increase the risk of overfishing. It is the Council's intent to manage the fishery to prevent reaching an overfished condition.

No comments on the amendment were received.

The definition of overfishing, and the measures to implement the definition, have been determined to meet the approvability criteria of the national standard guidelines.

Classification

The Director, Southwest Region, NMFS, determined that Amendment 6 is necessary for the conservation and management of the precious corals fishery and is consistent with the Magnuson Act and other applicable law.

The Council included an environmental assessment (EA) in Amendment 6. The Assistant Administrator for Fisheries, NOAA, concluded that there will be no significant impact on the human environment resulting from this amendment.

Because this amendment requires no implementing regulations, 5 U.S.C. section 553 of the Administrative Procedure Act, E.O. 12291, and the Regulatory Flexibility Act do not apply to this notice of approval. There will be no impact on marine mammals or endangered species.

This amendment does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

The Council has determined that the proposed amendment is consistent to the maximum extent practicable with the coastal zone programs of the governments of Hawaii, American Samoa, and Guam and has asked for concurrence with this determination. The governments did not respond; therefore, concurrence is inferred.

Amendment 6 does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 22, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91–1689 Filed 1–25–91; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Precious Corals Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of approval of amendment 2 to the fishery management plan for precious corals.

SUMMARY: NOAA issues this notice that amendment 2 to the Fishery Management Plan for the Precious Corals Fisheries of the Western Pacific Region (FMP) has been approved. Amendment 2, which defines overfishing in compliance with national standards 1 and 2 of the Magnuson Act, was submitted by the Western Pacific Fishery Management Council (Council) for Secretarial review on October 16, 1990. No rulemaking is involved in this action.

DATES: January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Southwest Region, (213) 514–6660, or Alvin Katekaru, NMFS, Pacific Area Office, Honolulu, Hawaii, (808) 955–8831.

SUPPLEMENTARY INFORMATION: A notice of availability of Amendment 2 was published in the **Federal Register** on November 2, 1990 (55 FR 46236), and comments were invited until December 20, 1990.

The guidelines to the national standards attendant to the Magnuson Act (50 CFR part 602) were revised in 1989 (54 FR 30711 *et seq.*) to require the Councils to amend all fishery management plans to include definitions of overfishing for their respective fisheries.

With regard to precious corals in the western Pacific, the Council defined overfishing of an established coral bed as the point where the total spawning biomass (all species combined) has been reduced to 20 percent of its unfished condition, illustrated by the use of a spawning potential ratio (SPR), which is the ratio of the spawning stock biomass of a fished resource to the spawning stock biomass of an unfished resource.

The amendment also implements the requirement of an annual report that summarizes the best scientific information available on the biological condition of established precious coral beds. The report will contain an overview of the status of precious coral stocks and any significant trends in the fishery.

Three comments on the amendment were received. One individual suggested that the category "size of crew" be included in the annual report so that fishery employment in the fishery can be adequately represented. That suggestion has been adopted.

One individual asked for a clarification of Table 1 in the amendment, and another asked for an explanation of why SPR, which in the past has referred to spawning stock biomass per recruit, is used to refer to spawning stock biomass in the case of coral management. These comments have been referred to the Council for its attention.

Classification

The Director, Southwest Region, NMFS, determined that the Amendment, as approved, is necessary for the conservation and management of the precious corals fishery and is consistent with the Magnuson Act and other applicable law.

The Council included an environmental assessment (EA) in Amendment 2, and the Assistant Administrator for Fisheries, NOAA, concluded that there will be no significant impact on the human environment resulting from this amendment.

Because the amendment requires no implementing regulations, 5 U.S.C. 533 of the Administrative Procedure Act, E.O. 12291, and the Regulatory Flexibility Act do not apply to this notice of approval. There will be no impact on marine mammals or endangers species.

This amendment does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

The Council has determined that the proposed amendment is consistent to the maximum extent practicable with the coastal zone programs of the governments of Hawaii, American Samoa, and Guam and has asked for concurrence with this determination.

The governments did not respond; therefore, concurrence is inferred.

Amendment 2 does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 22, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-1890 Filed 1-25-91; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 90123-0330]

Financial Assistance for Research and Development Projects To Provide Information for the Full and Wise Use and Enhancement of Fishery Resources in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of financial assistance.

SUMMARY: For fiscal year (FY) 1991, Marine Fisheries Initiative (MARFIN) funds are available to assist persons in carrying out research and development projects that optimize the use of U.S. Gulf of Mexico fisheries involving the U.S. fishing industry (recreational and commercial), including, but not limited to, harvesting methods, economic analyses, processing, fish stock assessment, and fish stock enhancement. NMFS issues this notice describing the conditions under which applications will be accepted and how NMFS will determine which applications will be funded.

DATES: Applications for funding under this program will be accepted between January 28, 1991 and 6 p.m. e.s.t. on March 14, 1991. Applications received after that time will not be considered for funding.

Applications may be inspected at the NMFS Southeaste Regional Office (see **ADDRESSES**) from March 14, 1991 to March 21, 1991.

Selection of succcessful applications generally will be provided by March 29, 1991.

ADDRESSES: Send applications to: Regional Director, Attn: D. Ekberg, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Questions of an administrative nature should be referred to: Grants Management Division, Attn: Jean West, Chief, Grants Operations Branch, NOAA, SSMC2, OA321, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301-427-2922.

Send comments on the collection of information to the office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Dr. Donald R. Ekberg, 813-893-3720.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Fish and Wildlife Act of 1956, at 16 U.S.C. 753a, and section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) auhtoirze the Secretary of Commerce (Secretary) to conduct research to enhance U.S. fisheries. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act of 1991 makes funds available to the Secretary for FY 1991. This solicitation makes available approximately $2.0 million (including $585 thousand for continuing projects) for financial assistance under the MARFIN program to manage and enhance the use of fishery resources in the Gulf of Mexico. There is no guarantee that sufficient funds will be available to make awards for all approved projects. U.S. fisheries [1] include any fishery that is or may be engaged in by U.S. citizens. The phrase "fishing industry" includes both the commercial and recreational sectors of U.S. fisheries. The "MARFIN Board" consists of individuals from (1) NMFS, (2) Gulf of Mexico Fishery Management Council, (3) Gulf and South Atlantic Fisheries Development Foundation, (4) Southeast Sea Grant Universities, (5) Gulf States Marine Fisheries Commission, (6) recreational fisheries, (7) commercial fisheries, and (8) the Gulf States. This program is described in the Catalog of Federal Domestic Assistance under program number 11.433 Marine Fisheries Initiative.

II. Funding Priorities

A. Proposals for FY 1991 should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multidisciplinary. Coordinated efforts involving multiple institutions or persons are encouraged. While the areas for priority consideration are listed below, proposals in other areas will be considered on a funds available basis.

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna, and shellfish which are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Gulf of Mexico shrimp, groundfish, menhaden, etc.

1. Shrimp

a. Shrimp Trawler Bycatch (Very high priority)

(1) These studies should include collection and analyses of new data using a multi-species approach with emphasis on species under Federal or state management.

(2) Quantification and further analysis of existing biological data obtained from observers, fishery independent surveys and other sources.

(3) Data collection and analyses related to the economic and social consequences of bycatch and various bycatch alternatives in the shrimp fisheries, including impact of management options. Capital/labor mobility and effort changes related to costs, management and/or increased fish abundance should be considered. Sociological studies should describe the demograhpic, social, and cultural characteristics of the fishermen as they may affect vocational and geographic mobility in response to changing fishery regulations. Direct and indirect economic and social consequences should be considered.

(4) Development and evaluation of gear and fishing tactics to reduce inshore and offshore bycatch. Biological, economic, and social implications should be considered.

b. Controlled-Access Management (Very high priority)

Proposals should concentrate on the development and assessment of models that predict economic changes in total fishing value, distributional effects and costs of fishery management, including enforcement and data costs. Sociological studies should describe the demographic, social, and cultural characteristics of the fishermen as they may affect vocational and geographic mobility in response to changing fishery regulations.

2. Oceanic Pelagics

a. Longline Fishery, Including Bycatch

(1) Quantification and analysis of existing data with special emphasis on existing logbook data.

(2) Collection and analyses of new data using a multi-species approach.

(3) Development and evaluation of gear and fishing tactics to reduce bycatch. Biological economic, and social factors should be considered.

b. Sharks (Very high priority)

(1) Characterization of the directed commercial, commercial bycatch, bycatch from other fisheries, and recreational fisheries, by species and

gear type, through analysis of new and existing data.

(2) Determination of baseline cost and returns for longline fisheries that target or retain sharks, and estimation of demand curves for shark products and recreational shark fisheries.

(3) Development of stock assessment and species profiles for target species.

3. Reef Fish (High priority)

a. Determination of recruitment processes for shallow and deep-water reef fish.

b. Identification of reef fish stock structure.

c. Complication of existing data on location and areal extent of reef fish habitats.

d. Collection and analysis of life history and catch and effort data for stock assessment, with special emphasis on shallow and deep-water grouper, amberjack, and grey triggerfish, including longline fishery data.

3. Description of the demographic, social and cultural characteristics of fishermen. Economics proposals should concentrate on the development of models that are capable of determining the economic effects of reef fish management, including bag limits, size limts, quotas, seasonal/area closures, gear restrictions and limited entry. Proposals should incorporate biological considerations either endogenously or exogenously. Emphasis should be placed on the development of model structures. These models may be tested using hypothetical data if sufficient empirical data are unavailable.

f. Studies contributing to the early life history of red snapper, specially related to larval survival.

4. Coastal Herrings & Butterfish

a. Collection of fishery independent data using resource surveys.

b. Description of predator-prey relationships.

c. Development of species profiles of coastal herrings and associated species.

5. Coastal Pelagics

a. Determination of recruitment indices for king and Spanish mackerel, cobia, and dolphin.

b. Collection and analysis of king and Spanish mackerel data from the entire Gulf of Mexico.

6. General

a. Determination of hook/release mortality for king and Spanish mackerel, reef fish, amberjack, and dolphin as a function of capture depth, handling, tackle, water temperature and other related factors.

b. Development of educational materials that can be used at sea by recreational and commercial fishermen to identify fish. Special emphasis should be given to sharks and reef fish.

c. Assessment of the changes in recreational and commercial values that have resulted from the implementation of bag limits, size limits, quotas or other management rules for red drum, mackerels, spotted sea trout, and reef fish.

d. Determination of sources and extent of unreported recreational and commercial catches of major Gulf of Mexico fisheries.

e. Studies that contribute to the economic and biological improvement of the estuarine fish, marine mollusks, and crab fisheries.

B. MARFIN financial assistance for projects started in FY 1986. For fiscal years 1986, 1987, 1988, 1989, and 1990, awards totaled $9.082 million. Funding, by fishery, was as follows:

	$ thousand	Percent of total
1. Shrimp (includes TED technology transfer)	1,525.8	16.8
2. Menhaden	70.9	0.8
3. Coastal pelagics	1,228.2	13.5
4. Reef fish	608.9	6.7
5. Coastal herrings	577.6	6.4
6. Ocean pelagics	455.3	5.0
7. Marine mollusks	387.2	4.3
8. Crabs and lobsters	564.4	6.2
9. Bottomfish	89.1	1.0
10. Marine Mammals and endangered species	288.2	3.2
11. Estuarine fish	3,200.5	35.2
12. General	85.9	0.9

C. Priority in program emphasis will be placed upon funding projects that have the greatest probability of recovering, maintaining, improving, or developing fisheries, improving our understanding of factors affecting recruitment success, generating increased values from fisheries, and generating increased recreational opportunity and harvest potential. Projects will be evaluated as to the likelihood of achieving these benefits through both short-term and long-term research projects with consideration of the magnitude of the eventual economic benefit that may be realized. Both short-term projects that may yield more immediate benefits and long-term projects yielding greater benefits will receive equal emphasis.

D. Further information on current programs that address the above listed priorities may be obtained from the NMFS Southeast Regional Office (see **ADDRESSES**).

III. How to Apply

A. Eligible Applicants

1. Applications for grants or cooperative agreements for MARFIN projects may be made, in accordance with the procedures set forth in this notice, by:

a. Any individual who is a citizen or national of the United States;

b. Any corporation, partnership, or other entity, non-profit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802).[2]

2. NOAA reserves the right to withhold the awarding of a grant or cooperative agreement to any individual or organization who is delinquent on a debt to the Federal Government until payment is made or satisfactory arrangement are made with the agency to whom the debt is owed. Any first time applicant for Federal grant funds is subject to a preaward accounting survey prior to execution of the award. Women and minority individuals and groups are encouraged to submit applications. NOAA employees, including full-time, part-time, and intermittent personnel (or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of

[2] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the Northern Mariana Islands (NMI) must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States. No more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens; and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the NMI or any other Commonwealth, territory, or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens of the NMI, if: (1) The title to 75 percent of its stock is not vested in such citizens of nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any person not a citizen or national of the United States or citizens of the NMI; (2) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (3) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI; or (4) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States.

an application, except to provide information about the MARFIN program and the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may have implication for an application. Potential applicants are encouraged to contact NOAA organizations engaged in fisheries research in the Gulf of Mexico, or Dr. Donald R. Ekberg at the NMFS Southeast Regional Office (see **ADDRESSES**) for information on NOAA programs.

B. Amount and Duration of Funds

Under this solicitation for FY 1991, an estimated $2.0 million will be available to fund fishery research and development projects ($1.41 million for new projects and $585 thousand for continuing projects). Grants or cooperative agreements may be awarded for a period of up to 3 years. Once awarded, multi-year projects will not compete for funding in subsequent years. Funding for multi-year projects beyond the first year is contingent upon the availability of program funds in subsequent fiscal years, and the extent to which project objectives and reporting requirements are met during the prior year. Publication of this announcement does not obligate NMFS to award any specific grant or to obligate all of any part of the available funds. Awards generally will be made no later than 90 days after the funding selection is determined and negotiations are completed. Under no circumstances should a successful applicant proceed with the proposed project until such time that he/she has received a signed notice of award from the Grants Officer.

C. Cost-Sharing Requirements

Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost-sharing is not required for the MARFIN program. However, cost-sharing is encouraged, and in case of a tie in considering proposals for funding, cost-sharing may affect the final decision. The appropriateness of all cost-sharing will be determined on the basis of guidance provided in OMB circulars. Appropriate documentation must exist to support in-kind services or property used to fulfill cost-sharing requirements.

D. Format

1. Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements describing the specific tasks to be performed by participants. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to managing and enhancing the use of Gulf of Mexico fishery resources, and cost estimates as they relate to specific aspects of the project. Budgets will include a detailed breakdown by category of expenditure with appropriate justification for both the Federal and non-Federal share. Applicants may submit up to three related projects under one proposal, but must identify project costs, including administrative costs, separately for each individual project. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application.

2. Applications must be submitted in the following format:

a. *Cover Sheet:* An applicant must use OMB Standard Form 424 (revised 4/88) as the cover sheet for each project or group of consolidated projects. Applicants may obtain copies of the form from the NMFS Southeast Regional Office, or Department of Commerce's Grants Management Division (see **ADDRESSES**).

b. *Project Summary:* Each project must contain a summary of not more than one page that provides the following information:

(1) Project title.

(2) Project status (new or continuing). If continuing, show previous financial assistance award number and beginning/ending date.

(3) Project duration (beginning and ending dates).

(4) Name, address, and telephone number of applicant.

(5) Principal Investigator(s).

(6) Project objectives.

(7) Summary of work to be performed. For continuing projects, the applicant must briefly describe progress to date, in addition to any changes to the statement of work previously submitted.

(8) Total Federal funds requested (for multi-year projects, identify each year's requested funding).

(9) Cost-sharing to be provided from non-Federal sources (for multi-year projects, identify each year's cost-sharing). Specify whether contributions are project related cash or in-kind.

(10) Total project cost.

c. *Project Description:* Each project must be completely and accurately described. Each project description may be up to 15 pages in length. NMFS will make all portions of the project description available to the public and members of the fishing industry for review and comment; therefore, NMFS cannot guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project.

Each project must be described as follows:

(1) *Identification of Problem(s):* Describe how existing conditions prevent the full use of Gulf of Mexico fishery resources. In this description, identify:

(a) The fisheries involved;

(b) The specific problem(s) that the fishing industry has encountered;

(c) The sectors of the fishing industry that are affected; and

(d) How the problem(s) prevent the fishing industry from using the fishery resources.

(2) *Project Goals and Objectives:* State what the proposed project will accomplish and describe how this will eliminate or reduce the problem(s) described above. For multi-year projects, describe the ultimate objective of the project and how the individual tasks contribute to reaching the objective. Describe the timeframe in which tasks would be conducted.

(3) *Need for Government Financing Assistance:* Explain why other fund sources cannot fund all the proposed work. List all other sources of funding that are, or have been, sought for the project.

(4) *Participation by Persons or Groups Other Than the Applicant:* Describe the level of participation required in the project(s) by NOAA or other government and non-government entities. Specific NOAA employees should not be named in the proposal, even though the applicant may wish to acknowledge government expertise in an allied areas.

(5) *Federal, State, and Local Government Activities:* List any programs (Federal, State, or local government or activities, including State Coastal Zone Management Programs, Sea Grant, Southeast Area Monitoring and Assessment Program, Pub.L. 99-659 and Cooperative Statistics) this project would affect and describe the relationship between the project and those plans or activities.

(6) *Project Outline:* Describe the work to be performed during the project, starting with the first month's work and continuing to the last month. Identify specific milestones that can be used to track project progress. For multi-year projects, major project tasks and milestones for future years must also be identified. If the work described in this section does not contain sufficient detail to allow for proper technical evaluation,

NMFS will not consider the application for funding and will return it to the applicant.

(7) *Project Management:* Describe how the project will be organized and managed. Include resumes of principal investigators. List all persons directly employed by the applicant who will be involved in the project, their qualifications, and their level of involvement in the project.

(8) *Monitoring of Project Performance:* Identify who will participate in monitoring the project.

(9) *Project Impacts:* Describe the impact of the project in terms of anticipated increased landings, production, sales, exports, product quality, safety, or any other measurable factors. Describe the specific products or services that will be produced by this project. Describe how these products or services will be made available to the fishing industry.

(10) *Evaluation of Project:* The applicant is required to provide an evaluation of project accomplishments in the final report. The application must describe the methodology or procedures to be followed to determine technical or economic feasibility, to evaluate consumer acceptability, or to quantify the results of the project in promoting increased landings, production, sales, exports, product quality, safety, or other measurable factors.

(11) *Total Project Costs:* Total project costs is the amount of funds required to accomplish the proposed statement of work (SOW), and includes contributions and donations. All costs must be shown in a detailed budget. Cost-sharing shall not come from another Federal source. Costs must be allocated to the Federal share and non-Federal share provided by the applicant or other sources. Non-Federal costs are to be divided into cash and in-kind contributions. A standard budget form (ED–357 NG; Rev. 3–80) is available from the offices listed (see **ADDRESSES**). A separate budget must be submitted for each project. An applicant submitting a multi-year project must submit two budgets—one covering total project costs (including individual costs per year) and one covering the initial funding request for the project. The initial funding request must cover funds required during the first 12-month period. NMFS will not consider fees or profits as allowable costs for grantees. To support its budget, the applicant must describe briefly the basis for estimating the value of the non-Federal funds derived from in-kind contributions. Costs for the following categories must be detailed in the budget as follows:

(i) *Personnel.*

(a) *Salaries:* Identify salaries by position and percentage of time and annual/hourly salary of each individual dedicated to the project.

(b) *Fringe Benefits:* Indicate benefits associated with personnel working on the project. This entry should be the proportionate cost of fringe benefits paid for the amount of time spent in the project. For example, if an employee spends 20 percent of his/her time on the project, 20 percent of his/her fringe benefits should be charged to the project.

(ii) *Consultants and Contract Services:* Identify all consultant and/or contractual service costs by specific task in relation to the project. If a commitment has been made prior to application to contract with a particular organization, explain how the organization was selected. Describe the type of contract, budget, deliverables expected, and timeframe. A detailed budget must be submitted (with supporting documentation) for the total amount of funding requested for a subcontractor/consultant. All contracts must meet the standards established in OMB circulars.

(iii) *Travel and Transportation:* Identify number of trips to be taken, purpose, and number of people to travel. Itemize estimated costs to include approximate cost of transportation, *per diem*, and miscellaneous expenses.

(iv) *Equipment, Space or Rental Costs:* Identify equipment purchases or rental costs with the intended use. Equipment purchases greater than $500 are discouraged, since experienced investigators are expected to have sufficient capital equipment on hand. Use of lease to purchase (LTOP) or similar leases are prohibited. Identify space or rental costs with specific uses.

(v) *Other Costs.*

(a) *Supplies:* Identify specific supplies necessary for the accomplishment of the project. Consumable office supplies must be included under Indirect Costs unless purchased in a large quantity to be used specifically for the project.

(b) *Postage and Shipping:* Include postage for correspondence and other project related material, as well as air freight, truck or rail shipping of bulk materials.

(c) *Printing Costs:* Include costs associated with producing materials in conjunction with the project.

(d) *Long Distance Telephone and Telegraph:* Identify estimated monthly bills.

(e) *Utilities:* These costs should be included under Indirect Costs unless purchased in a large quantity to be specifically identified to the project. Identify costs of utilities and percentage of use in conjunction with performance of project.

(f) *Indirect Costs:* This entry should be based on the applicant's established indirect cost agreement rate with the Federal Government. A copy of the current approved negotiated Indirect Cost Agreement must be included. It is the policy of the Department of Commerce that indirect cost shall not exceed direct costs.

(g) *Additional Costs:* Indicate any additional costs associated with the project that are allowable under OMB Circulars A–21, A–87, and A–122.

(d.) *Supporting Documentation:* This section should include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in the section will depend on the type of project proposed. The applicant should present any information that would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project to fisheries use may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower ranking of the project. Information presented in this section should be clearly referenced in the project description.

E. Application Submission and Deadline.

1. *Deadline:* (see **dates**)

2. *Submission of Applications to NMFS:* Applications are not to be found in any manner and should be one-sided. All incomplete applications will be returned to the applicant. Applicants must submit one signed original and two (2) copies of the complete application to the NMFS Southeast Regional Office (see **ADDRESSES**). Questions of an administrative nature should be referred to the Grants Management Division, OA321 (see **ADDRESSES**).

IV. Review Process and Criteria

A. Evaluation and Ranking of Proposed Projects

1. For applications meeting the requirements of this solicitation, NMFS will conduct a technical evaluation of each project prior to any other review. This review normally will involve experts from non-NOAA organizations. If an application contains two or more projects, NMFS will evaluate the projects separately. All comments

submitted to NMFS will be taken into consideration in the technical evaluation of projects. NMFS will provide point scores on proposals based on the following evaluation criteria:

a. Adequacy of research/development/demonstration for managing or enhancing Gulf of Mexico marine fishery resources, addressing especially the possibilities of securing productive results (30 points).

b. Soundness of design/technical approach for enhancing or managing the use of Gulf of Mexico marine fishery resources (25 points).

c. Organization and management of the project, including qualifications and previous related experience of the applicant's management team and other project personnel involved (20 points).

d. Effectiveness of proposed methods for monitoring and evaluating the project (15 points).

e. Justification and allocation of the budget in terms of the work to be performed (10 points).

2. Applications will be ranked by NMFS into three groups: (a) Highly recommended, (b) recommended, and (c) not recommended; for presentation to MARFIN Board members. The Board members individually will consider the significance of the problem addressed in the project, along with the technical evaluation and need for funding. The Board members' individual evaluations will aid NMFS in determining the appropriate level of recommended funding for each project.

B. Consultation with Others

NMFS will make project descriptions available for review as follows:

1. *Public Review and Comment:* Applications may be inspected at the NMFS Southeast Regional Office (see **ADDRESSES** and **DATES**).

2. *Consultation with Members of the Fishing Industry:* NMFS shall, at its discretion, request comments from members of the fishing and associated industries who have knowledge in the subject matter of a project or who would be affected by a project.

3. *Consultation with Government Agencies:* Applications will be reviewed in consultation with the NMFS Southeast Science and Research Director and appropriate laboratory personnel, NOAA Grants Officer and, as appropriate, Department of Commerce bureaus and other Federal agencies, for elimination of duplicate funding. The Regional Fishery Management Councils (Councils) may be asked to review projects and advise of any real or potential conflicts with Council activities.

C. Funding Decision

After projects have been evaluated, MARFIN Board members individually will submit funding recommendations to the Director of the NMFS Southeast Regional Office (Regional Director). The Regional Director, in consultation with the NOAA Assistant Administrator for Fisheries, will ascertain that the projects do not substantially duplicate other projects that are currently funded by NOAA/NMFS or are approved for funding by other Federal offices, determine the projects to be funded, and determine the amount of funds available for the program. The exact amount of funds awarded to each project will be determined in preaward negotiations between the applicant, the Grants Office, and the NMFS program staff. The Department of Commerce wil review all projects recommended for funding before an award is executed by the Grants Officer. The funding instrument will be determined by the Grants Officer. Projects shall not be initiated by a recipient until a notice of award is received from the Grants Officer. For multiyear projects, funds will be provided when specified tasks are satisfactorily completed and after NMFS has received MARFIN funds for subsequent fiscal years.

V. Administrative Requirements

A. Obligations of the Applicant

An applicant must:

1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. If a project is awarded, manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are awarded, and be responsible for the satisfactory completion of all administrative and managerial conditions required by the award. This includes adherence to procurement standards set forth in the award and referenced OMB Circulars and Department of Commerce regulations.

4. If a project is awarded, keep records sufficient to document any costs incurred under the award, and allow access to records for audit and examination by the Secretary, the Comptroller of the United States, or their authorized representatives.

5. Fishery data collected during the course of a project that could be pertinent to fishery management needs must be available to NMFS on request, subject to pertinent confidentiality requirements.

6. If a project is awarded, quarterly project status reports on the use of funds, and progress of the project must be submitted to NMFS within 30 days after the end of each calendar quarter. The content of these reports will include, at a minimum:

a. A summary of work conducted, which includes a description of specific accomplishments and milestones achieved;

b. The degree to which goals or objectives were achieved as originally projected;

c. Where necessary, the reasons why goals or objectives are not being met; and

d. Any proposed changes in plans or redirection of resources or activities and the reason therefore.

7. If a project is funded, submit an original and two copies of a final report to NMFS within 90 days after completion of each project. The report must describe the accomplishments of the project and include an evaluation of the work performed and the results and benefits of the work in sufficient detail to enable NMFS to assess the success of the completed project. Results must be described in relation to the project objectives of resolving specific impediments to managing or enhancing fisheries, and be quantified to the extent possible. Potential uses of project results by private industry or fishery management agencies should be specified. Any conditions or requirements necessary to make productive use of project results should be identified.

8. Present completed project results at the annual MARFIN conference and submit an abstract 15 days prior to the conference (September 1991). Travel funds for the Principal Investigator to attend this meeting will be provided by NMFS.

9. Each recipient of MARFIN funding must comply with applicable OMB circulars, Department of Commerce policies and regulations, and NOAA policies and guidelines. The Drug-Free Workplace Act of 1988 requires that all grantees receiving Federal financial assistance must maintain a drug-free workplace. Each award contains DOC standard terms and conditions and NOAA special award conditions that must be met by the recipient.

10. For each project funded, three copies of all publications or reports printed with grant funds must be submitted to the Program Officer. Any publication printed with grant funds must identify the NOAA MARFIN

program as the funding source along with the grant award number. Grant recipients are also requested to submit to the Program Officer three copies of all publications resulting wholly or in part from MARFIN funded projects, to indicate in such publications the role of the MARFIN program in accomplishing the research and, where another Federally funded program provides data sources used in the research, to so indicate.

B. Obligations of the National Marine Fisheries Service

The NMFS Southeast Region will:

1. Provide programmatic information necessary for the proper submission of applications.

2. Provide advice to inform applicants of NMFS fishery management and development policies and goals.

3. Monitor all projects after award to ascertain their effectiveness in achieving project objectives and in producing measurable results. Actual accomplishments of a project will be compared with stated objectives.

4. Refer questions regarding grant management policy and administration from applicants/recipients to the Grants Officer.

C. NOAA Grants Management Officer Responsibility

The NOAA Grants Management Officer is responsible for the execution of NOAA Federal Assistance Awards. The Grants Officer is responsible for the business management aspects of the awards, and serves as the counterpart to the Business Officer of the recipient. The Grants Officer works closely with the Program Officer, who is responsible for the scientific, technical, and programmatic aspects of the project. The official grant file will be maintained by the Grants Officer.

D. Legal Requirements

The applicant will be required to satisfy the requirements of applicable local, state, and Federal laws.

Recipients are subject to the provisions of 31 U.S.C. 1352 entitled "Limitations on use of appropriated funds on certain Federal contracting and financial transaction," more commonly known as the "lobbying disclosure" rule.

Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF–LLL form, "Disclosure of Lobbying Activities" (if applicable), are required to be submitted with the application.

Potential recipients may be required to submit an "Identification-Application for Funding Assistance" form (Form CD–346), which is used to ascertain background information on key individuals associated with the potential recipient. The CD–346 form requests information to reveal if any key individuals in the organization have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters pertinent to management honesty or financial integrity. Potential recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Grants awarded pursuant to the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1854(e), shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Classification

NMFS reviewed this solicitation in accordance with Executive Order (E.O.) 12291 and the Department of Commerce guidelines implementing that Order. This solicitation is not "major" because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This notice does not contain policies with sufficient federalism implications to warrant preparation of a federalism assessment under E.O. 12612. Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

Information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB Clearance No. 0648–0175) under the provisions of the Paperwork Reduction Act. Public reporting burden for Agency-specific collection of information elements, exclusive of requirements specified under applicable OMB circulars, is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regional Director and to OMB (see **ADDRESSES**).

This program is subject to the provisions of E.O. 12372.

Authority: 16 U.S.C. 753a and 16 U.S.C. 1854(e)

Dated: January 18, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91–1834 Filed 1–25–91; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Army

Open Meeting; Armed Forces Epidemiological Board, DOD

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

NAME OF COMMITTEE: Armed Forces Epidemiological Board, DoD.

DATE OF MEETING: 27 February 1991.

TIME: 1400–1700.

PLACE: Ft. Detrick, Frederick, MD.

PROPOSED AGENDA: Final Review of Overseas Laboratories Report.

This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Interested persons wishing to participate should advise the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, room 667, Falls Church, Virginia 22041–3258.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91–1910 Filed 1–25–91; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

NAME OF THE COMMITTEE: Army Science Board (ASB).

DATES OF MEETING: 12–13 February 1991.

TIME: 0800–1630.

PLACE: Pentagon, Washington, DC.

AGENDA: The Army Science Board (ASB) 1991 Summer Study on Army Simulation Strategy will hold a 2 day meeting. The meetings will include planning and layouts of the study plan and introductory technical/programmatic briefing in the area of modeling and simulation. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 91–1921 Filed 1–25–91; 8:45 am]

BILLING CODE 3710–8–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1473–005, et al.]

Hydroelectric Applications, Granite County, Montana, et al.; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* New License.

b. *Project No.* 1473–005.

c. *Date filed:* July 18, 1990.

d. *Applicant:* Granite County, Montana.

e. *Name of Project:* Flint Creek Project.

f. *Location:* At Georgetown Lake in Granite and Deer Lodge Counties, Montana, near the towns of Philipsburg and Anaconda. A portion of the project is within the Deer Lodge National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Clifford Nelson, Chairman, County Commissioners, Granite County, P.O. Box B, Philipsburg, MT 59858.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely, (202) 219–2842.

j. *Comment Date:* March 12, 1991.

k. *Initial License:* A license was issued effective to Montana Power Company on July 1, 1938, and expired June 30, 1988. The project is now being operated under an annual license.

l. *Description of Project:* The project consists of the following existing facilities: (1) a 44-foot-high, 330-foot-long masonry-core earth embankment dam with a crest elevation of 6,435.5 feet;[1] (2) an uncontrolled concrete chute spillway with an invert elevation of 6,429.5 feet; (3) the Georgetown Lake reservior, with a surface area of 2,850 acres and a storage capacity of 31,040 acre-feet at a spillway crest elevation 6,429.5 feet; (4) a 36-inch-diameter concrete pipe on the east side of the dam, returning flow to Flint Creek (presently not operating); (5) two 30-inch-diameter outlet pipes on the west side of the dam, one pipe providing flow to a woodstave flowline and the other pipe serving as a bypass pipe that discharges flow into Flint Creek, near the toe of the dam; (6) a 52-inch-diameter, 6,282-foot-long woodstave flowline; (7) a 63-foot-high reinforced concrete surge tank; (8) a 36-inch-diameter, 1,493-foot-long partially buried penstock; (9) a 90-foot-long, 30-foot-wide wood powerhouse containing two generating units with a total installed capacity of 1,000 kilowatts (kW); (10) two underground trailrace flumes returning project flow to Flint Creek; and (11) related facilities.

The applicant proposes to (1) replace the woodstave flowline with a 36-inch-diameter, 6,282-foot-long steel pipeline; (2) install two new 700-kW generating units; (3) build two underground trailrace flumes to return flow to Flint Creek; and (4) replace related facilities to accommodate the additional generating capacity.

The total installed capacity of the project would increase from 1,100 kW to 2,500 kW, producing about 9.23 gigawatthours of energy annually.

No transmission line is part of this project. The estimated cost of proposed modifications to the project is $2,068,000.

m. *This notice also consists of the following standard paragraphs:* B, C, and D1.

2 a. *Type of Application:* Amendment of License.

b. *Project No.:* 2407–005.

c. *Date Filed:* January 14, 1991.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Yates Project.

f. *Location:* On the Tallapoosa River, in Tallapoosa and Elmore Counties, Alabama, in the vicinity of Tallassee and Carrville.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John E. Dorsett, Vice President, Power Generation Services, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, Alabama 35291–0364, (205) 250–1380.

i. *FERC Contact:* Mr. Lynn R. Miles, (202) 219–2671.

j. *Comment Date:* March 11, 1991.

k. *Description of the Amendment:* Alabama Power Company has proposed to include five-hundred and seventy (570) acres of additional land within the project boundary. The proposed amendment will expand the project boundary to include lands inundated by the Tallapoosa River one-year flood level as projected by the U.S. Geological Survey. The additional lands would provide the licensee greater control of the area to ensure public safety during times of high river flows in addition to enhancement of the scenic and recreational values in and around the project area.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2.

3 a. *Type of Application:* Transfer of license.

b. *Project No.:* 8377–018.

c. *Date Filed:* November 20, 1990.

d. *Applicant:* Central Hydroelectric Corporation (Transferor) and Isabella Partners, (Transferee).

e. *Name of Project:* Isabella Project.

f. *Location:* At the Corps of Engineers' Isabella Dam, on the Kern River, in Kern County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Carl Berg, Isabella Partners, 10050 Bandley Drive, Cupertino, CA 95014, (408) 725–0700.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* March 12, 1991.

k. *Description of Proposed Action:* On May 31, 1988, a license was issued to Central Hydroelectric Corporation for the construction, operation, and maintenance of the Isabella Project. It is proposed to transfer the license to Isabella Partners. The proposed transfer will not result in any changes to the proposed development. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

[1] All elevations are measured in Montana Power Company datum, which equals United States Geological Survey datum plus 53 feet.

l. *This notice also consists of the following standard paragraphs:* B, and C.

4 a. *Type of Application:* Major License.

b. *Project No.:* 10100–002.

c. *Date filed:* May 31, 1990.

d. *Applicant:* Cascade River Hydro.

e. *Name of Project:* Irene Creek Hydroelectric.

f. *Location:* On Irene Creek, partially within Mt. Baker-Snoqualmie National Forest in Skagit County, Washington, Ranges 11 and 12 East, Township 35 North, Willamette Meridian.

g. *Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).*

h. *Applicant Contact:* Mr. Michael S. Wright, Permit/Engineering, Inc., 1300–114th Ave. SE #220, Bellevue, WA 98004, (206) 451–7371.

i. *FERC Contact:* Mr. James Hunter, (202) 219–2839.

j. *Comment Date:* March 31, 1991.

k. *Description of Project:* The proposed project would consist of (1) a 40-foot-long, 10-foot-high reinforced concrete diversion weir across Irene Creek at river mile 1.9, with a crest elevation of 2,808 feet; (2) a 32-foot-long, 8-foot-wide, 11-foot-high reinforced concrete intake structure on the left bank of Irene Creek with trashracks, fish screens, a sluice gate, and a closure gate; (3) 34-inch-diameter water conveyance facilities including a 1,200-foot-long penstock, a 4,750-foot-long tunnel, and a 4,380-foot-long penstock; (4) a 33-foot-wide, 34-foot-long powerhouse containing a generating unit with an installed capacity of 6.5 MW; (7) a 4-foot-wide tailrace spilling project flows over the edge of the canyon wall, as a waterfall; (8) a 6.7-mile-long, 34.5-kV transmission line tying into an existing Puget Power line; (10) a 1,050-foot-long access road to the powerhouse; and (11) appurtenant facilities. The project would produce an average annual output of 26.3 GWh and would cost $5,155,600 in 1990 dollars.

l. *Purpose of Project:* Power generated would be sold to a local utility.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, and C.

5 a. *Type of Application:* Minor License.

b. *Project No.:* 10141–002.

c. *Date filed:* June 1, 1990.

d. *Applicant:* William C. Porter.

e. *Name of Project:* Olson Creek Hydroelectric.

f. *Location:* On Olson Creek, partially within Mt. Baker-Snoqualmie National Forest in Skagit County, Washington, Township 35 North, Range 10 East, Section 1, Willamette Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Dr. Charles Fulmer, 6174 N.E. 187th Place, Seattle, WA 98155, (206) 486–3437.

i. *FERC Contact:* Mr. James Hunter, (202) 219–2839.

j. *Comment Date:* March 13, 1991.

k. *Description of Project:* The proposed project would consist of: (1) A 5-foot-high concrete weir and a separate intake structure with trash racks and fish screens, together impounding water at elevation 361 feet; (2) an 18-inch-diameter, 977-foot-long steel penstock; (3) a 13-foot-wide, 15-foot-long concrete powerhouse containing a 200-kW generating unit; (4) a tailrace discharging at river mile 1.55 and tailwater elevation 151 feet; and (5) a 1300-foot-long, 2.4-kV transmission line to the point of usage on the Porter property. The project would have an estimated annual output of 1.22 GWh and would cost $500,000 in 1990 dollars.

l. *Purpose of Project:* Generated power would be used solely on the Porter property.

m. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

6 a. *Type of Application:* Major License.

b. *Project No.:* 10813–000.

c. *Date filed:* July 31, 1989.

d. *Applicant:* Town of Summersville, West Virginia.

e. *Name of Project:* Summersville Dam.

f. *Location:* On the Gauley River, near Summersville, Nicholas County, West Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James B. Price, Noah Corp., 120 Calumet Ct., Aiken, SC 29801, (803) 642–2749.

i. *FERC Contact:* Michael Dees (dmt) (202) 357–0807.

j. *Comment Date:* March 19, 1991.

k. *Description of Project:* The proposed powerhouse would be located downstream of the existing valve house below the existing U.S. Corps of Engineers' Summersville Dam. The dam is a rock-fill structure, 393 feet high and 2,280 feet long. Other existing structures are two dikes, 2 spillways and 2 low-level outlet tunnels, 29-foot in diameter, which bifurcate into three 11-foot-diameter steel tunnels controlled by 9-foot-diameter Howell-Bunger valves. The reservoir storage volume at a spillway crest elevation of 1,710 feet is 413,400 ac-ft. The reservoir level varies from 1,575 feet in winter to 1,652 feet in summer. The reservoir serves for flood control, low flow augmentation and recreation.

The proposed project would consist of: (1) Three 11-foot-diameter penstocks connected to existing outlet conduits; (2) a powerhouse containing 3 large (3 × 24 MW) and 1 small (1 × 8 MW) turbine-generators; (3) a new valve house with 3 Howell-Bunger valves; (4) a tailrace; (5) a transmission line 8 miles long; (6) a switchyard; and (7) appurtenant facilities. Energy would be used by applicant or sold to a utility.

l. *This notice also consists of the following standard paragraphs:* A3, A9, B, C, and D1.

7 a. *Type of Application:* Major License.

b. *Project No.:* 10945–000.

c. *Date filed:* June 7, 1990.

d. *Applicant:* City of Oswego.

e. *Name of Project:* Oswego Falls Project.

f. *Location:* On the Oswego River in Oswego and Onondaga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Paul V. Nolan, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* March 12, 1991.

k. *Competing Applications:* Project No. 5984–000, Filing date: February 16, 1982, Project No. 10457–000, Filing date: August 18, 1987

l. *Description of Project:* The proposed project would consist of: (1) The existing 316-foot-long dam varying in height from 12.6 feet to 15 feet; (2) the existing 1.5-foot/high flashboards; (3) an impoundment having a surface area of 580 acres, with a storage capacity of 3540 acre-feet and a normal water surface elevation of 353.3 feet msl; (4) two existing intake water structures (one on each the East and West sides of the dam); (5) 2 existing power houses witha total installed capacity of 11.51 MW 5 existing and 3 new generating units (East powerhouse contains 3 existing generating units with total rated capacity of 4500-kW, the West powerhouse contains 2 existing and 3 new generating units with a total installed capacity of 7010-kW); (6) two existing tailraces; (7) 3 existing 34.5 kV transmission lines; and (8) appurtenant facilities. The applicant estimates the average annual generation would be 60,390 MWh and would be sold to the Niagara Mohawk Power Corporation. The existing facilities are owned by the New York State Department of transportation and Niagara Mohawk Power Corporation.

m. *This notice also consists of the following standard paragraphs:* A4, B, C, and D1.

8 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11020–000.

c. *Date filed:* October 5, 1990.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* A.J. Wiley Hydroelectric Project.

f. *Location:* On the Snake River in Twin Falls and Gooding Counties, Idaho, near the town of Bliss. The project would occupy National Park Service lands and land administered by the Bureau of Land Management. T6S, R12E; T7S, R13E Boise Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)-825(r).

h. *Applicant Contact:* Robert W. Stahman, Vice President, Secretary and General Counsel, Idaho Power Company, 1220 Idaho Street, Boise, ID 83701, (208) 383–2676; Mr. Lee S. Sherline, Leighton & Sherline, Suite 101, 1010 Massachusetts Ave., NW, Washington, DC 20001, (202) 898–1122.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely on (202) 219–2842.

j. *Comment Date:* March 30, 1991.

k. *Competing Application:* Project No. 10911–000 Public Comment: September 6, 1990.

l. *Description of Project:* The proposed project would consist of: (1) A 100-foot-high, 680-foot-long dam; creating (2) a 625 acre reservoir with a storage capacity of 24,000 acre-feet at elevation 2,735 feet; (3) a 164-foot-wide intake structure; (4) three penstocks; (5) a powerhouse containing three generating units with a combined installed capacity of 86,000 kW, producing an estimated average annual output of 485,000,000 kWh; (6) a tailrace; (7) a 3-mile-long, 138-kV transmission line tying into the existing Bliss-King line.

m. *Purpose of Project:* Project power will be utilized by the applicant to meet expected future growth.

n. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11036–000.

c. *Date filed:* October 25, 1990.

d. *Applicant:* Calaveras County Water District and Northern California Power Agency.

e. *Name of Project:* Ramsey-French Meadow.

f. *Location:* In Stanislaus National Forest, on Highland Creek and the North Fork Stanislaus River, in Calaveras and Tuolumne Counties, California. Township 6 N Range 16 E.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)-825(r)

h. *Applicant Contact:* Mr. Steve Felte, General Manager, Calaveras County Water District, P.O. Box 846, San Andreas, CA 95249, (209) 754–3543.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* March 5, 1991.

k. *Description of Project:* The proposed project would consist of: (1) A 24-foot-high concrete dam, on Highland creek; (2) a reservoir with a surface area of 5 acres and a gross storage of 25 acre-feet; (3) a 12-foot-diameter, 10-mile-long penstock; (4) a powerhouse containing 2 generating units with a combined capacity of 58,500 kW with an estimated average annual generation of 203 GWh; (5) a 130-foot-high concrete dam, on the North Fork Stanislaus River; (6) a reservoir with a surface area of 200 acres and a gross storage of 10,000 acre-feet; (7) a 12-foot-diameter, 8-mile-long penstock; (8) a powerhouse containing 2 generating units with a combined capacity of 53,400 kW with an estimated average annual generation of 142 GWh; (9) a 2.7-mile-long transmission line from the first powerhouse and a 10-mile-long line from second powerhouse to the interconnection; and (10) a 1-mile-long access road to the powerhouse on the Stanislaus River.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $120,000.

l. *Purpose of Project:* Project power would used by the Northern California Power Agency.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

10 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11040–000.

c. *Date filed:* November 2, 1990.

d. *Applicant:* Utah State University.

e. *Name of Project:* Logan River First Dam.

f. *Location:* On Logan River in Cache County, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Ms. Evan N. Stevenson, Vice President for Administrative Affairs, Utah State University, Logan, Utah 84322–1445, (801) 750–1146.

i. *FERC Contact:* Mr. Surender M. Yepuri, (202) 219–2847.

j. *Comment Date:* March 12, 1991.

k. *Description of Project:* The proposed project would utilize the existing First Dam, owned by the Applicant, and would consist of: (1) The existing concrete dam, 30 feet high and 200 feet long; (2) a reservoir having minimal storage; (3) a powerhouse within 8,000 feet of the dam site with an installed capacity of 800 kW; (4) a tailrace returning the discharge to the river; and (5) a direct connection to the Applicant's existing electrical distribution. The applicant estimates an annual output of 2 MWh and the cost of the work to be performed under the permit to be $50,000.

l. *Purpose of Project:* The power generated would be utilized by the Applicant to reduce the purchased power.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

11 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11041–000.

c. *Date filed:* November 5, 1990.

d. *Applicant:* Albion Dam Hydro Watt Associates.

e. *Name of Project:* Albion Dam Project.

f. *Location:* On the Blackstone River in Providence County, Rhode Island.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Lavigne, Rivers Engineering Company, 1600 Candia Road, Manchester, NH 03103, (603) 647–8700.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* March 14, 1991.

k. *Description of Project:* The proposed project would consist of: (1) The existing 300-foot-long, 25-foot-high concrete rollaway Albion Dam; (2) the existing impoundment having a surface area of 18 acres, with a storage capacity of 235 acre-feet, and a normal water surface elevation of 88 feet m.s.l.; (3) the existing 1,250-foot-long headrace; (4) the existing powerhouse containing one generating unit with a total installed capacity of 940 kW; and (5) appurtenant facilities. The applicant estimates the average annual generation would be 4.1 GWH and would be sold to a local utility. The Dam is owned by American Tourister, Inc. The applicant estimates the cost of studies under this permit would be $50,000.

l. *This notice also consists of the following standard paragraphs:* A3, A7, A9, A10, B, C, and D2.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11042–000.

c. *Date filed:* November 5, 1990.

d. *Applicant:* Ashton Dam Hydro Watt Associates.

e. *Name of Project:* Ashton Dam Project.

f. *Location:* On the Blackstone River in Providence County, Rhode Island.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. John Lavigne, Rivers Engineering Company, 1600 Candia Road, Manchester, NH 03103, (603) 647–8700.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* March 14, 1991.

k. *Description of Project:* The proposed project would consist of (1) the existing 200-foot-long, 10-foot-high, masonry arched Ashton Dam; (2) the existing impoundment having a surface area of 35 acres with negligible storage and normal water surface elevation of 74 feet msl; (3) an existing 700-foot-long, 30-foot-wide intake canal; (4) 2 proposed 30-foot-long penstocks one 5-foot-diameter the other 2-foot-diameter; (5) a proposed powerhouse containing 2 generating units having a total installed capacity of 750-kw (6) a proposed 600-feet-long, 48-kV transmission line; and (7) appurtenant facilities. The applicant estimates the average annual generation would be 4.0 GWH and would be sold to a local utility. The dam is owned by Ronci Manufacturing Co., Inc. The applicant estimates the cost of studies under this preliminary permit would be $50,000.

l. *This notice also consists of the following standard paragraphs:* A3, A7, A9, A10, B, C, and D2.

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11043–000.

c. *Date filed:* November 5, 1990.

d. *Applicant:* Saranac Mill Dam Hydro Watt Associates.

e. *Name of Project:* Saranac Mill Dam Project.

f. *Location:* On the Blackstone River in Providence County, Rhode Island and Worcester County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. John Lavigne, Rivers Engineering Company, 1600 Candia Road, Manchester, NH 03103, (603) 647–8700.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Comment Date:* March 19, 1991.

k. *Description of Project:* The proposed project would consist of: (1) The existing impoundment having a surface area of 5 acres with a storage capacity of 20 acre-feet and a normal water surface elevation of 93 feet msl; (3) the existing 2,000-foot-long intake canal; (4) a proposal powerhouse containing one generating unit with an installed capacity of 900 kW; (5) the existing tailrace; (6) the proposed 200-foot-long 1.2 kV transmission line, and appurtenant facilities. The applicant estimates the average annual generation would be 3.8 GWH and would be sold to a local utility. The dam is owned by P&C Enterprises, Inc. The applicant estimate the cost of studies under this preliminary permit would be $50,000.

l. *This notice also consists of the following standard paragraphs:* A3, A7, A9, A10, B, C, and D2.

14 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11046–000.

c. *Date Filed:* November 9, 1990.

d. *Applicant:* Green Island Dam Hydro Watt Associates.

e. *Name of Project:* Green Island Dam.

f. *Location:* At the U.S. Army Corps of Engineers Green Island Dam on the Hudson River near Green Island in Albany and Rensselaer Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Paul V. Nolan, 6219 N. 19th Street, Arlington, VA 22205, 703–534–5509.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* March 19, 1991.

k. *Description of Project:* The proposed run-of-river project would consist of: (1) A gated intake structure to control flow to the powerhouse; (2) a 220-foot-long forebay to be located adjacent to the west lock wall; (3) a powerhouse containing three to six generating units with a total installed capacity of 20 MW; (4) an 850-foot-long tailrace; and (5) a 0.4-mile-long transmission line. The applicant estimates the average annual energy production to be 50 GWh and the cost of the work to be performed under the preliminary permit to be $50,000.

l. *Purpose of Project:* The power produced would be sold to a local power company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11050–000.

c. *Date Filed:* November 14, 1990.

d. *Applicant:* North Side Canal Company, Ltd.

e. *Name of Project:* North Side Jerome Hydroelectric Project.

f. *Location:* On Applicant's U, S, and W Canals, off the Main Canal which is fed by waters from the Snake River, in Jerome County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Kip W. Runyan, Ida-West Energy Compnay, 333 North 13th Street, Boise, Idaho 83702, (208) 336–4254.

i. *FERC Contact:* Mr. Surender M. Yepuri, (202) 219–2847.

j. *Comment Date:* March 31, 1991.

k. *Description of Project:* The proposed project would consist of five water power developments, as follows:

(1) U–1 Development—a diversion structure (upstream pool elevation estimated at 3,928 feet above MSL); two 10-foot-diameter, 800-foot-long penstocks; a powerhouse containing two generators with a combined generating capacity of 4.3 MW; a tailrace returning the discharge to the U Canal; and a 46-kV, three-mile-long transmission line interconnecting with a local distribution line. The Applicant estimates an annual output of 18,700 MWh.

(2) U–2 Development—a diversion structure (upstream pool elevation estimated at 3,885 feet above MSL); a 13-foot-diameter, one-mile-long penstock; a powerhouse containing two generators with a combined generating capacity of 9.9 MW; a tailrace returning the discharge to the U Canal; and a 46-kV, four-mile-long transmission line interconnecting with a local distribution line. The Applicant estimates an annual out of 36,400 MWh.

(3) U–3 Development—a diversion structure (upstream pool elevation estimated at 3,775 feet above MSL); a 12-foot-diameter, 2,000-foot-long penstock; a powerhouse containing two generators with a combined generating capacity of 3.7 MW; a tailrace returning the discharge to the U Canal; and a 46-kV, four-mile-long transmission line interconnecting with the U–2 Development transmission line. The Applicant estimates an annual output of 17,000 MWh.

(4) Jerome North Road Development—a gated outlet structure (upstream pool elevation estimated at 3,785 feet above MSL); 5.5-foot-diameter, half-mile-long penstock; a powerhouse containing a generator with a capacity of 950 kW; a tailrace returning the discharge to the S Canal; and a 46-kV, four-mile-long transmission line interconnecting with the U–2 Development transmission line. The Applicant estimates an annual output of 3,600 MWh.

(5) W Diversion Development—a gated outlet structure (upstream pool elevation estimated at 3,725 feet above MSL); a 7-foot-diameter, half-mile-long penstock; a powerhouse containing a generator with a capacity of 1.8 MW; a tailrace returning the discharge to the W Canal; and a 46-kV, five-mile-long transmission line interconnecting with the U–2 Develoment transmission line. The Applicant estimates an annual output of 6,600 MWh.

The Applicant estimates the cost of the work to be performed under the permit to be $292,100.

l. *Purpose of Project:* The power generated would be sold to Idaho Power Company.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C and D2.

16 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11058–000.

c. *Date Filed:* December 6, 1990.

d. *Applicant:* A.L.L. Natural Resources.

e. *Name of Project:* Fitchburg Paper Mill Dam #4.

f. *Location:* On the North Nashua River, Town of Fitchburg, Worcester County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)—825(r).

h. *Applicant Contact: Paul V. Nolan, 6219 N. 19th Street, Arlington, VA 22205, (703) 534–5509.*

j. *FERC Contact:* Charles T. Raabe, (202) 219–2811.

j. *Comment Date:* March 7, 1991.

k. *Description of Project:* The proposed project would consist of: (1) An existing 9½-foot-high, 200-foot-long granite and concrete dam having a 165-foot-long spillway section surmounted by 1-foot-high flashboards; (2) a reservoir having a surface area of two acres and a storage capacity of less than one acre-foot; (3) a gated intake at the north (left) bank; (4) a short existing canal section; (5) two proposed overshot waterwheels; (6) a proposed powerhouse containing a 45-kW generator and electrical switchgear; (7) a proposed 50-foot-long, 13.8-kV transmission line; and (8) appurtenant facilities.

The applicant estimates that the average annual generation would be 260,000 kWh and that the cost of the studies under the permit would be $8,000. The existing facilities are owned by Roland Fitchburg Paper Inc.

1. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

17 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11061–000.

c. *Date Filed:* December 13, 1990.

d. *Applicant:* Windsor Machinery Company.

e. *Name of Project:* Lower Walden Hydroelectric Project.

f. *Location:* On the Wallkill River near Walden, Orange County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact: Harry A. Terbush, 16 Orbit Lane, Hopewell Junction, NY 12533, (914) 897–4194.*

j. *FERC Contact:* Mary C. Golato, (202) 219–2804.

j. *Comment Date:* March 19, 1991.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing concrete gravity dam 8 to 9 feet high and approximately 350 feet long; (2) an existing reservoir having a surface area of 10 acres with a negligible storage capacity and a normal surface elevation of 277.7 feet mean sea level; (3) a proposed powerhouse containing two or three propeller and/or Kaplan turbines with a total rating capacity of 750 kilowatts; (4) a 13.2-kilovolt, 3-phase transmission line; and (5) appurtenant facilities. The Village of Walden owns the dam. The total estimated average generation would be 2.8 million kilowatthours. The applicant estimates that the cost of the studies under permit would be $15,400.00.

1. *This notice also consist of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

Standard paragraphs:

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

c. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in Section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statute listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 22, 1991, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 91–1860 Filed 1–25–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed During the Week of November 30 through December 7, 1990

During the week of November 30 through December 7, 1990, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 22, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

Week of November 30 through December 7, 1990

Date	Name and location of applicant	Case no.	Type of submission
12/3/90	Gannett News Service, Arlington, VA	LFA-0089	Appeal of an Information Request Dinial. *If Granted:* Gannett News Service would receive access to certain DOE information.
12/3/90	Texaco/Ye Olde Town Pump, Hardin, KY	RR321-38	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* The September 10, 1990 Decision and Order (Case No. RF321-3455 & RF321-9311) issued to Ye Olde Town Pump would be modified regarding the firm's Application for Refund submitted in the Texaco Inc. special refund proceeding.
12/4/90	Bunge Corporation, New York, New York	RR272-61	Request for Modification/Rescission in the Crude Oil Refund Proceeding. *If Granted:* The November 1, 1990 Decision and Order (Case No. RF272-20571) issued to Bunge Corporation would be modified regarding the firm's Application for Refund submitted in the crude oil special refund proceeding.
12/4/90	Gulf/Ross Reamsnyder Gulf, Findlay, OH	RR300-13	Request for Modification/Rescission in the Gulf Refund Proceeding. *If Granted:* The November 16, 1990 Decision and Order (Case No. RF300-11443) issued Ross Reamsnyder Gulf would be modified regarding the firm's Application for Refund submitted in the Gulf special refund proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

Week of November 30 through December 7, 1990

Date	Name and location of applicant	Case no.	Type of submission
12/4/90	Texaco/Interstate Texaco, Hardin, KY	RR321-40	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* The September 7, 1990 Decision and Order (Case No. RF321-1076, RF321-6029, RF321-6526) would be modified regarding the firm's Application for Refund submitted in the Texaco Inc. special refund proceeding.
12/5/90	American Jet Aviation, Washington, DC	RR272-62	Request for Modification/Rescission in the Crude Oil Refund Proceeding. *If Granted:* The April 6, 1990 Decision and Order (Case No. RF272-6847) issued to American Jet Aviation would be modified regarding the firm's Application for Refund submitted in the crude oil special refund proceeding.
12/5/90	Shell/Inter City Oil Company, Inc., Washington, DC	RR315-1	Request for Modification/Rescission in the Shell Refund Proceeding. *If Granted:* The October 23, 1990 Decision and Order (Case No. RF315-10004) issued to Inter City Oil Company, Inc., would be modified regarding the firm's Application for Refund submitted in the Shell special refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of November 30 Through December 7, 1990]

Received	Name of Firm	Case No.
12/7/87	Chickasha Fuel Supply, Inc.	RC272-103
6/7/88	Onward and Lillian Seger.	RC272-104
1/30/89	B.R.S. Oil Company.	RF309-1418
11/30/90 thru 12/7/90	Crude Oil Refund, Applications Received.	RF272-84686 thru RF272-84842
11/30/90 thru 12/7/90	Gulf Oil Refund, Applications Received.	RF300-13912 thru RF300-14207
11/30/90 thru 12/7/90	Texaco Refund, Applications Received.	RF321-11731 thru RF321-11868
12/3/90	La Cloria Oil and Gas Company.	RF326-183
12/3/90	Central Power and Light Company.	RF326-184
12/3/90	Dow Chemical Company.	RF326-185
12/3/90	Commercial Lovelace Motor Freight.	RF315-10100
12/3/90	Lee Way Motor Frieght, Inc.	RF315-10101

REFUND APPLICATIONS RECEIVED—Continued

[Week of November 30 Through December 7, 1990]

Received	Name of Firm	Case No.
12/3/90	Arrow Transportation Company.	RF315-10102
12/4/90	Fisher's "Y" Service.	RF326-186
12/4/90	South Daytona Shell.	RF315-10104
12/5/90	J.B. McCurry	RF315-10103
12/5/90	Conrad Kral	RF315-10105
12/6/90	Briggs Transportation Company.	RF315-10106
12/7/90	Bay Oil Company	RF326-187

[FR Doc. 91-1942 Filed 1-25-91; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of December 7 through December 14, 1990

During the Week of December 7 through December 14, 1990, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 22, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

Week of December 7 through December 14, 1990

Date	Name and Location of Applicant	Case No.	Type of Submission
12/10/90	Texaco/West Street Texaco, Hardin, KY	RR321-39	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* The September 7, 1990 Decision and Order (Case Nos. RF321-6398 & RF321-9310) issued to West Street Texaco would be modified regarding the firm's Application for Refund submitted in the Texaco Inc. special refund proceeding.
12/11/90	Texaco/William J. Perret, Tucson, AZ	RR321-41	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* The October 31, 1990 Decision and Order (Case Nos. RF321-7323 & RF321-8194) issued to William J. Perrett would be modified regarding the firm's Application for Refund submitted in the Texaco Inc. special refund proceeding.
12/12/90	Brother's Truck Rental Co., Inc., New York, New York	RR272-63	Request for Modification/Rescission in the Crude Oil Refund Proceeding. *If Granted:* The August 17, 1990 Decision and Order (Case No. RF272-68878) issued to Brother's Truck Rental Company, Inc., would be modified regarding the firm's Application for submitted in the crude oil special refund proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

Week of December 7 through December 14, 1990

Date	Name and Location of Applicant	Case No.	Type of Submission
12/12/90	Texaco/Perkins Road Texaco, Baton Rouge, LA	RR321-42	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* The Decision and Order (Case Nos. RF321-4187 & RF321-9639) issued to Perkins Road Texaco would be modified regarding the firm's Application for Refund submitted in the Texaco Inc. special refund proceeding.
12/13/90	Surface Mining Research Library, Charleston, WV	LFA-0090	Appeal of an Information Request Denial. *If Granted:* The July 30, 1990 Freedom of Information Request Denial issued by the Office of Administrative Services would be rescinded, and the Surface Mining Research Library would receive access to certain DOE information.
12/13/90	National Helium/Illinois, Springfield, IL	RR321-RM3-242	Request for Modification/Rescission in the National Helium Refund Proceeding. *If Granted:* The December 22, 1986 Decision and Order (Case No. RQ3-285) issued Illinois would be modified regarding the State's Application for Refund submitted in the National Helium second stage refund proceeding.
12/14/90	ARCO/Major Oils, Penfield, NY	RR304-11	Request for Modification/Rescission in the ARCO Refund Proceeding. *If Granted:* The October 1, 1990 Decision and Order (Case No. RF304-3436) issued to Major Oils would be modified regarding the firm's Application for Refund submitted in the ARCO special refund proceeding.

REFUND APPLICATIONS RECEIVED

Week of December 7 Through December 14, 1990

Received	Name of Firm	Case No.
12/18/87	City of Columbus	RC272-106
3/11/88	City of Columbus	RC272-105
12/7/90 thru 12/14/90	Crude Oil Refund, Applications Received.	RF272-84843 thru RF272-85063
12/7/90 thru 12/14/90	Gulf Oil Refund Applications Received.	RF300-14208 thru RF300-14363
12/7/90 thru 12/14/90	Texaco Refund Applications Received.	RF321-11869 thru RF321-12150
12/7/90	Roach Gas Co., Inc.	RF307-10165
12/10/90	Helga I. Coddington.	RF304-12156
12/10/90	Triple H. Truck Stop.	RF326-188
12/10/90	Glenn Schaefer Gas & Oil.	RF326-189
12/10/90	Phillips Petroleum Company.	RF326-190
12/10/90	Mid-West Oil, Ltd.	RF326-191

REFUND APPLICATIONS RECEIVED—Continued

Week of December 7 Through December 14, 1990

Received	Name of Firm	Case No.
12/11/90	Brannan Petroleum Co.	RF329-1
12/12/90	Oceana Terminal Corp.	RF307-10166
12/13/90	Crown Central Petroleum Corp.	RF326-192
12/13/90	P, M & O Lines	RA272-33

[FR Doc. 91-1943 Filed 1-25-91; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed During the Week of December 14 through December 21, 1990

During the Week of Decmeber 14 through December 21, 1990, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 22, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

Week of December 14 through December 21, 1990

Date	Name and Location of Applicant	Case No.	Type of Submission
12/17/90	Texaco/Morania Oil Corporation, New York, New York.	RR321-43	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* The December 5, 1990 Decision and Order (Case No. RF321-8025 & RF 321-10730) issued to Morania Oil Corporation would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
12/18/90	Texaco/Tate's Texaco, Hardin, Kentucky	RR321-44	Request for Modification/Rescission in the Texaco Refund Proceeding. *If Granted:* the November 28, 1990 and October 25, 1990 Decision and Order (Case Nos. RF321-11531, RF321-1844 & RF321-10284) issued to Tate's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
12/18/90	Glen Milner, Seattle, Washington	LFA-0091	Appeal of an Information Request Denial. *If Granted:* Glen Milner would receive access to DOE Information.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

Week of December 14 through December 21, 1990

Date	Name and Location of Applicant	Case No.	Type of Submission
12/20/90	Greenpeace, Washington, DC	LFA-0092	Appeal of an Information Request Denial. *If Granted:* The November 21, 1990 Freedom of an Information Request Denial issued by the Office of Defense Programs would be rescinded, and Greenpeace would receive access to documents requested.

Date received	Name of refund proceeding/name of refund application	Case number
12/14/90	Big Chief Drilling Company.	RF326-193
12/14/90	Charles Davis Oil Company.	RF315-10107
12/17/90	Voegele Bulk Service.	RF326-194
12/17/90	United Gas Pipe Line Company.	RF326-195
12/17/90	Patrons Oil Company.	RF326-196
12/17/90	Pyramid Supply, Inc.	RF326-197
12/17/90	Wayne's Shell #1	RF315-10108
12/17/90	Wayne's Shell #2	RF315-10109
12/17/90	Wayne's Shell #3	RF315-10110
12/17/90	Pope Paving Corp.	RF251-10111
12/17/90	Marin Car Washes.	RF315-10112
12/17/90	National Heat & Power.	RF313-329
12/17/90	Pyramid Supply, Inc.	RF313-330
12/17/90	Pyramid Supply, Inc.	RF309-1419
12/13/90	Wallers Service Center.	RF304-12163
12/18/90	James B. Catlett Jr.	RF326-198
12/18/90	Loffland Brothers Company.	RF326-199
12/18/90	H.G. Seeley Const. Corp.	RF326-200
12/18/90	Skyline Exxon	RF307-10167
12/18/90	Hansen's Camp	RF315-10113
12/19/90	Ancona Brothers Co.	RC272-107
12/20/90	Rip Griffin Truck Svc. Ctr.	RF326-201
12/04/90 thru 12/21/90	Crude Oil Refund Applications Received.	RF272-85064 thru RF272-85414
12/04/90 thru 12/21/90	Gulf Oil Refund Applications Received.	RF300-14384 thru RF300-14406
12/04/90 thru 12/21/90	Texaco Oil Refund Applications Received.	RF321-12151 thru RF321-12307

[FR Doc. 91-1944 Filed 1-25-91; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 17 through December 21, 1990

During the week of December 17 through December 21, 1990, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Glen Milner, 12/17/90; KFA-0181

Glen Milner filed a Freedom of Information Act (FOIA) Appeal of a partial information request denial by the Albuquerque Operations Office (Albuquerque) of the Department of Energy (DOE). The DOE determined that portions of the requested material contain classified Restricted Data and Formerly Restricted Data, as those terms are defined in the Atomic Energy Act of 1954. Therefore, these portions were withheld from release under Exemption 3 of the FOIA. The Department of the Navy, (Navy) the originator of the documents at issue, also withheld portions of the requested material under Exemption 5 of the FOIA. The Navy reasoned that these portions disclosed opinions and recommendations that were involved in the Government's deliberative process. However, the Navy determined that some responsive unclassified portions of the material should be released to Milner. Accordingly, Mr. Milner's Appeal was granted in part and denied in part.

The Oak Ridger, 12/20/90; LFA-0086

The Oak Ridger filed an Appeal from determinations issued by the Authorizing Official of the Oak Ridge Operations Office (ORO) of the Department of Energy (DOE). The determinations denied, in part, a Request for Information which the Oak Ridger had filed under the Freedom of Information Act. The Oak Ridger requested from ORO all documents referring to the union referral system to be utilized by Morrison Knudsen-Ferguson and the Knoxville Building and Construction Trades Counsel. In considering the Appeal, the DOE found that the Authorizing Official had properly applied Exemption 5 to the majority of the documents in question. However, the DOE released a redacted copy of one document that contained segregable factual material.

Supplemental order

Economic Regulatory Administration/ Bayport Refining Co., 12/17/90; KRX-0064

In *Bayport Refining Company*, 18 DOE ¶ 83,007 (1989), the DOE issued a Remedial Order to Bayport Refining and its President Malcom M. Turner on the basis of alleged violations of the layering rule embodied in 10 CFR 212.186, and sales of miscertified crude oil in violation of 10 CFR 212.131. The DOE, however, requested further briefing on the liability of two Bayport officers, Harry F. Mason (Mason) and Robert H. Houser (Houser), under the Trust Fund Doctrine. Thereafter, the Economic Regulatory Administration (ERA) filed a Motion for Issuance of Special Report Orders to gain information on whether Bayport had paid assets to Mason and Houser on its corporate dissolution. The DOE denied the ERA's request for Special Report Orders, holding that ERA could not now use the Special Report Order mechanism as a substitute for discovery it should have undertaken earlier. ERA was allowed 30 working days in which to either file its brief on the Trust Fund Doctrine or dismiss the personal liability claim against Mason and Houser.

Refund Applications

Allied Bendix Aerospace, 12/21/90; RD272-4750, RF272-4750

The Department of Energy issued a Decision and Order granting an Application for Refund filed by Allied Bendix Aerospace in the DOE's subpart V crude oil proceeding. In that Decision and Order, the DOE found that the applicant was an end-user of the refined petroleum products for which it sought a refund in that the applicant used the petroleum products in the course of its normal business activities as manufacturer of aerospace instruments.

Since this activity is not related to the petroleum industry, the applicant was presumed to have been injured by the crude oil overcharges. A consortium of 30 states and 2 territories (the States) filed objections and a Motion for Discovery with respect to this application. In their submission, the States attempted to rebut the end-user presumption of injury. The DOE found that 4.5% of the petroleum products purchased by Allied were used pursuant to contracts that permitted the applicant to recover its increased petroleum product costs. Accordingly, Allied's gallonage claim was reduced by 4.5%. With respect to the remainder of Allied's gallonage claim, the DOE rejected the States' objections and determined that the end user presumption was applicable. The DOE further determined that the Motion for Discovery should be denied, and that a refund of $10,300 should be granted to Allied.

B&S Cleaners, 12/20/90; RF272–58776

The DOE issued a Decision and Order in the subpart V crude oil special refund proceeding denying a refund to B&S Cleaners, a dry cleaner in West Point, Mississippi. B&S Cleaners refused to submit the volume of petroleum products it purchased during the period August 19, 1973 through January 27, 1981. Instead, it based its claim for refund entirely on its purchase of new dry cleaning equipment. The DOE determined that B&S Cleaners' application did not comply with the mandates of the orders implementing the crude oil refund procedures, which require the use of a volumetric method. Consequently, the DOE stated that refunds in the crude oil proceeding will only be paid when a claimant can show the amount of petroleum products which it purchased during the period of controls.

Belships Company Limited Skibs A/S, 12/19/90; RF272–38242, RD272–38242

The DOE issued a Decision and Order concerning an Application for Refund filed in the subpart V crude oil special refund proceeding being disbursed by the DOE under 10 CFR Part 205. The DOE determined that the refund claim was meritorious and granted a refund of $17,100. The DOE also denied a Motion for Discovery filed by a consoritum of States and two Territories of the United States and rejected their challenge to the claim. The DOE denied the States' Objection, finding that foreign flag ocean carriers are eligible for a refund based on their domestic purchases of petroleum products during the price control period.

Chickasha Fuel Supply, Inc., 12/19/90; RC272–103

The DOE issued a Supplemental Order rescinding the Decision and Order issued to Chickasha Fuel Supply, Inc., (Case No. RF272–13480) on November 19, 1990. The Decision and Order was rescinded because later information revealed that the Applicant was not an end-user, but was instead a reseller of petroleum products during the crude oil refund period, and had failed to submit the required evidence of injury.

Exxon Corp./Traveler's Exxon, 12/18/90; RF307–10155

The DOE issued a Supplemental Order in the Exxon Corporation special refund proceeding regarding Traveler's Exxon (Traveler's) (Case No. RF307–5805). In *Exxon Corp./Grundy County Highway Department*, 20 DOE ¶ 85,233 (1990), Traveler's was granted a refund of $153 based upon its purchases of Exxon refined petroleum products. However, the Decision was returned as undeliverable due to the death of the owner of Traveler's. The DOE was subsequently unable to obtain a correct address for the executor of the estate of the owner. The refund granted to Traveler's was therefore rescinded.

Fine Management Corp., 12/17/90; RF272–11733

The DOE issued a Decision and Order denying the refund application filed in the Subpart V crude oil refund proceeding by Fine Management Corporation (Fine), a reseller of petroleum products. Counsel for a group of 30 States and Territories (the States) submitted comments opposing Fine's refund claim on the ground that Fine failed to submit evidence of injury required of resellers. Fine's representative, the law firm of Borenkind and Mondeschein, filed a response to the State's comments, arguing that Fine should be granted a refund because not only did it not file a claim in the "Stripper Well" proceeding, but it was also injured by crude oil overcharges as evidenced through a showing of industry-wide data. This argument was found to be wholly inadequate, and Fine's application was denied.

George Brox, Inc., 12/20/90; RF272–78567, RD272–78567

The DOE issued a Decision and Order concerning an Application for Refund filed by an asphalt manufacturing and road construction firm in the Subpart V crude oil proceeding. A group of States and Territories (States) objected to the application on the grounds that the applicant was able to pass through increased petroleum costs to consumers during the consent order period. The only evidence submitted by the States was an affidavit by an economist stating that, in general, construction firms were able to pass through increased petroleum costs. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied the States' Motion for Discovery, determining that it was not appropriate where the States had not presented relevant evidence to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $18,676.

Gilman Realty Corp., 12/18/90; RF272–5317, RD272–5317

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to Gilman Realty Corp. (Gilman) based on its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of twenty-eight States and two territories of the United States (the States) filed a pleading objecting to and commenting on the application. The States contended that Gilman, a residential property management company, was able to pass through all overcharges to its tenants. Gilman acknowledged that it passed on some increased costs and estimated that it passed increased costs associated with 50 percent of its heating oil purchases. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury concerning Gilman's remaining heating oil purchases and that the applicant should receive a refund for 50 percent of its purchases. In addition, the States filed a Motion for Discovery which was denied. The refund granted in this Decision was $4,600.

Gulf Oil Corp./Cardon Oil Co., 12/19/90; RF300–4259

The DOE issued a Decision and Order concerning an Application for Refund submitted by an indirect purchaser in the Gulf Oil Corporation special refund proceeding. The applicant established that it purchased Gulf products from four different suppliers. The DOE had not made any determinations regarding the portion of the alleged Gulf overcharges absorbed by three of the four suppliers. Accordingly, Cardon's claim on the gallons purchased from those three suppliers was calculated based upon its full allocable share under the same procedures used to evaluate

direct purchasers claiming under a presumption of injury. However, the DOE had determined that one of the suppliers, Beavers Oil Company (Beavers) had absorbed 49.6 percent of the alleged overcharges. Therefore, the DOE calculated Cardon's refund on its purchases from Beavers based upon 50.4 percent of Cardon's allocable share, the percentage of the alleged overcharges passed through by Beavers. Cardon was granted a refund based upon the 40 percent presumption of injury established by the Gulf proceeding for the volume purchased from the four suppliers. The sum of the refunds granted in this Decision, which includes both principal and interest, is $10,283.

Hartford Steam Co./Copper Valley Electric Association, Inc., 12/19/90; RF272-60334, RF272-61743

The Department of Energy (DOE) issued a Decision and Order granting refund monies from crude oil overcharge funds to the Hartford Steam Company (Hartford) and the Copper Valley Electrict Association, Inc. (Copper) based on their purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. A group of States submitted an objection to Hartford's claim, stating that Hartford, and utilities in general, were not injured by alleged overcharges because they were able to pass increased fuel costs on to their customers in the form of higher prices. The DOE determined that because both Hartford, an unregulated utility and Copper, a regulated utility, certified that they had automatic mechanisms for returning any refunded monies to their customers, both utilities were eligible to receive refunds on behalf of their customers. The DOE granted Hartford a refund of $16,403 based on its approved purchases of 20,504,121 gallons of refined petroleum products. Copper was granted a refund of $16,716 based on its approved purchases of 20,894,697 gallons of petroleum products.

Laclede Steel Co., 12/19/90; RF272-2886, RD272-2886

The Department of Energy (DOE) issued a Decision and Order granting a refund from crude oil overcharge funds to Laclede Steel Company (Laclede) based on its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Laclede was involved in the steel industry and used the petroleum products in its business operations. Laclede was an end-user of the products claimed and was therefore presumed injured. A consortium of states and territories filed a Statement of Objections and a Motion for Discovery with respect to Laclede's claim. The DOE found that the states' filings were insufficient to rebut the presumption of injury for end-users in Laclede's case. Therefore, Laclede's Application for Refund was granted and the Motion for Discovery was denied. The refund amount granted to Laclede was $17,430.

Murphy Oil Corporation/Southern Fuel Oils, Inc./Buena Vista Oil Co., Inc., 12/19/90; RF309-901, RF309-978

The DOE issued a Decision and Order granting two applications for refund filed in the Murphy Oil Corporation special refund proceeding. The applicants had each purchased some of the assets of a firm which had purchased petroleum products directly from Murphy. Each applicant had also submitted a letter from the former owners stating that the former owners waived their rights to any refunds in favor of the current owners. Accordingly, each current owner was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Murphy escrow account. The total of the refunds granted in the Decision was $2,275 ($1,710 principal plus $565 interest.)

Shell Oil Co./L.M. Amick, Inc., 12/21/90; RF315-7038, RF315-10066

The DOE issued a Decision and Order concerning two Applications for Refund filed on behalf of L.M. Amick, Inc. One Application (RF315-7038) was filed by Lester Amick, the sole stockholder in the corporation during the refund period, and the other (RF315-10066) was filed by Christopher Amick, the present sole stockholder. OHA held that Christopher Amick acquired the right to the refund with the purchase of the corporation's stock. Lester Amick's Application was therefore denied. On behalf of L.M. Amick, Inc., Christopher Amick received a refund of $1,964 ($1,482 principal plus $482 interest).

Shell Oil Company/
South Daytona Shell
South Daytona Shell, 12/20/90; RF315-4503, RF315-10104

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting the Shell Oil Company refund applications of South Daytona Shell, a retailer of Shell products. South Daytona's first application, Case No. RF315-4503, was filed by Michael L. Eddings. It subsequently came to our attention that Mr. Eddings had a partner, Harry Boulmetis. Generally, when a firm claiming a refund is a partnership, the refund is divided among the partners. Accordingly, South Daytona's refund of $1,378 was split between the two partners. Each received a refund of $689 ($520 in principal plus $169 in interest).

Texaco Inc./
J.R. Lemunyon et al., 12/20/90; RF321-5302 et al.

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning seven Applications for Refund filed by consignees and resellers of Texaco products. The DOE noted that consignees are entitled to refunds on the same basis as other resellers in order to compensate for possible allocation violations during the refund period. In determining the appropriate volume upon which to calculate the refunds, the DOE (1) reduced volumes claimed by jobber applicants by volumes involved in "Delivery For Our Account" transactions since these volumes did not constitute purchases, (2) excluded from consignee claims volumes that the applicant purchased through the consigneeship since those volumes were already included in the consignee volumes and applicants are entitled to only one refund for the same product, and (3) increased the amount of the claim where Texaco records indicated that there were additional purchases that the applicant did not include in its application. The applicants stated that they accepted the presumption of injury; accordingly they were not required to demonstrate injury. The two applicants who had allocable shares of less than $10,000 were granted refunds equal to their full allocable share. Under the mid-level presumption of injury, the five other applicants were granted a refund equal to the greater of $10,000 or 50% of their allocable share. The total refund amount granted in this Decision is $87,902 ($72,917 principal plus $14,985 interest).

Zim Israel Navigation Co., LTD., 12/17/90; RF272-42764, RD272-42764

Zim Israel Navigation Co., Ltd. (Zim Israel), a foreign flagship carrier operating ocean-going vessels in the foreign commerce of the United States, filed an application for refund as an end-user of refined petroleum products in the Subpart V crude oil refund proceeding. Rejecting arguments raised by a group of state governments, the DOE concluded that (i) Zim Israel was eligible to receive a crude oil refund even though it was under foreign ownership and (ii) foreign ocean carriers were not automatically able to pass through increased bunker fuel costs to their customers. The DOE concurred with the States' position that the DOE price regulations did not apply to sales

in the Panama Canal Zone (PCZ), and subtracted the 262,710 gallons of purchases which Zim Israel certified had been made in the PCZ. As an end-user of the petroleum products involved, Zim Israel was presumed injured by the crude oil overcharges. The amount of the refund granted in this Decision is $476,127. A Motion for Discovery filed by the States was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Atlantic Richfield Co./Ever Clean Car Wash.	RF304-12151	12/20/90
Kelley's Service Center.	RF304-12152	
David B. Harris	RF304-15153	
Atlantic Richfield Co./J. Goodwin & Mills *et al.*	RF304-2465	12/21/90
Atlantic Richfield Co./Ron's Arco *et al.*	RF304-11300	12/19/90
City of Anthon *et al*	RF272-60909	12/18/90
Gulf Oil Corp./ Campground Gulf *et al.*	RF300-11209	12/20/90
Gulf Oil Corp./Florida and Beacon Gulf *et al.*	RF300-10455	12/19/90
Gulf Oil Corp./ Shaftsbury Gulf *et al.*	RF300-10910	12/17/90
Harrill Wiggins Well Company.	RF272-6597	12/17/90
Franklin D. Gaines Oil Trust.	RF272-7001	12/17/90
Shell Oil Company/ Bardy Farms Shell *et al.*	RF315-8609	12/17/90
Texaco Inc./Alabama Power Company *et al.*	RF321-5300	12/18/90
Texaco Inc./Clint Garrett Oil Company.	RF321-4172	12/20/90
Clint Garrett Oil Company.	RF321-6810	
Texaco Inc./ Congress Street Texaco.	RF321-12170	12/18/90
Texaco Inc./Fagan's Texaco.	RF321-3204	12/17/90
Don Fagan's Texaco	RF321-6312	
Texaco Inc./Julie's Service Station.	RF321-8518	12/17/90
Julie's Service Station.	RF321-11447	
Texaco Inc./R.B. Kooser.	RF321-4782	12/21/90
R.B. Kooser Oil Company.	RF321-5482	
R.B. Kooser Oil Company.	RF321-8974	
Bob's Texaco Service.	RF321-5481	
R.E Kooser	RF321-5491	
Puru's Texaco	RF321-5492	
Texaco Inc./Rucker's *et al.*	RF321-5100	12/21/90
Wantagh School District.	RF272-49571	12/17/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Bethel-Tate Local School Dist.	RF272-83420
Bill Southard Texaco #1	RF321-829
Billy Car Shell	RF315-7053
Bob Mazy Texaco	RF321-11717
Broadway Texaco	RF321-7689
Cody's Service Station	RF321-11712
Columbia School District	RF272-83968
Dick's Texaco	RF321-4469
Dick's Texaco	RF321-4470
Douglas Texaco	RF321-3357
Ferry Farm Texaco	RF321-1934
Gannett News Service	LFA-0089
Geneva Rock Products, Inc.	RF272-22941
Geneva Rock Products, Inc.	RD272-22941
Golden Gem Growers, Inc.	RF272-70198
Helen Hayes Hospital	RF272-26139
Hugh's Shell, Inc.	RF315-1436
Juanita Texaco	RF321-11718
Ken Harrison Texaco	RF321-10787
Lee Davis Texaco	RF321-2101
Lightfoot Shell	RF315-7055
McCarley's Texaco	RF321-2117
Mike's Texaco	RF321-2110
No-D-Lay Service, Inc.	RF315-285
Palmer Motor Express, Inc.	RF272-70230
Parkers Bus Company, Inc.	RF272-12155
Peoria Blacktop, Inc	RF272-16274
Poppie's Place	RF309-857
Progress West Texaco	RF321-1210
R&P Texaco	RF321-10067
Reggan's Texaco	RF321-1240
Robert H. Hall	RF321-8107
Roy's Texaco	RF321-7303
State Supply Company	RF304-9958
Taylor Towne Arco	RF304-11199
Taylor's Texaco	RF321-1971
The Lowry Coalition	LFA-0063
The Lucky Angler	RF315-264
Trinity Lane Shell Station	RF315-7056
Van Wieren Texaco #1	RF321-7696
Van Wieren Texaco #2	RF321-7697
West Gate Texaco	RF321-3998
Woody's Texaco	RF321-11736

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management:* Federal Energy Guidelines, a commercially published loose leaf reporter system.

January 22, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-1945 Filed 1-25-91; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for the disbursement of $3,800,000, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company. The petroleum related activities of the Quintana-Howell Joint Venture are also covered by these procedures. The OHA has determined that the funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V, and in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

DATE AND ADDRESS: Applications for Refund submitted for a portion of the funds allocated to the refined products pool must be filed in duplicate, postmarked no later than November 29, 1991. Applications should be addressed to the Office of Hearing and Appeals, Department of Energy, 1000 Independence Avenue, SW. Washington, DC 20585. All Applications for Refund from the refined product pool should display a reference to case number KEF-0131.

Applications for Refund from the crude oil pool should be clearly labeled "Application for Crude Oil Refund" and should be mailed to Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Applications for Refund from the crude oil pool must be filed in duplicate and postmarked no later than June 30, 1992. Any party who has previously filed an Application for Refund in crude oil proceedings should not file another Application for Refund from the crude oil pool. The previous crude oil Application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW. Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regualtions of the

Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $3,800,000 that has been remitted by Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company (hereinafter collectively referred to as Quintana) to the DOE to settle possible violations of the federal petroleum price and allocation regulations. The petroleum related activities of the Quintana-Howell Joint Venture (QHJV) are also covered by these procedures. The DOE is currently holding the funds in an interest bearing account pending distribution.

The OHA has decided to divide the funds into a refined products pool and a crude oil pool. The OHA will distribute these funds in accordance with the DOE's subpart V refund procedures, and in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 F.R. 27899 (August 4, 1986). Applications for Refund from the refined product pool will be accepted from customers who purchased controlled refined petroleum products from Quintana and/or the QHJV during the refund period. Applications for Refund from the refined product pool must be post marked no later than November 29, 1991 to meet the filing deadline.

Applications for refund from the crude oil pool of funds must be post marked no later than June 30, 1992. As we stated in the Decision, any party who has previously submitted a refund Application in the crude oil refund proceedings should not file another Application for Refund in the crude oil proceedings. That previous Application will be deemed filed in all crude oil proceedings as the procedures are finalized.

Dated: January 18, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 18, 1991.

Decision and Order

Names of Firm: Quintana Energy Corporation, Quintana Refinery Co., Quintana Petrochemical Company

Date of Filing: April 27, 1989

Case Number: KEF–0131

On April 27, 1989, the Economic Regulatory Administration (ERA) filed a Petition with the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings between Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company (hereinafter referred to collectively as Quintana) and the DOE. 10 CFR part 205, subpart V. The Consent Order also settles Quintana's potential liability as a joint venturer in the Quintana-Howell Joint Venture (QHJV). On April 30, 1990, the OHA issued a Proposed Decision and Order (PD&O) that tentatively set forth procedures for disbursement of the Consent Order funds. 55 FR 18941 (May 7, 1990). We established a 30-day period for the submission of comments regarding the proposed procedures. We received comments from two parties. The present Decision will address these comments and set forth final procedures for the distribution of the Quintana Consent Order funds.

I. Background

Quintana was engaged in, among other things, the production, importation, refining and sale of crude oil and refined petroleum products during the period of January 1, 1973 through January 27, 1981. Quintana was a "refiner", "reseller" and "producer" as those terms are defined by the federal petroleum price and allocation regulations and subject to the jurisdiction of the DOE. The ERA conducted an audit of Quintana's compliance with the Mandatory Petroleum Price Regulations during the period January 1978 through December 1980. As a result of this audit, the ERA issued a Proposed Remedial Order (PRO) to Quintana and the Howell Corporation on June 24, 1988 which alleged that the QHJV misreported its receipt of controlled tier crude oil as uncontrolled crude oil on its entitlements reports in violation of 10 CFR 211.66 (b) and (h) and 205.202.

While Quintana and the DOE disagree with regard to the proper application of the federal petroleum price and allocation regulations to Quintana's and the QHJV's activities, and each maintains that its position is meritorious, in order to settle and finally resolve all civil and administrative claims and disputes between the DOE and Quintana, Quintana and the DOE entered into a Consent Order which became final on March 9, 1989. 54 FR 10039 (March 9, 1989). The Consent Order settles the liability of Quintana regarding all administrative claims and disputes, whether or not previously asserted, between the DOE and Quintana concerning Quintana's (and all of Quintana's affiliates and subsidiaries) compliance with the federal petroleum price and allocation regulations during the period January 1, 1973 through January 27, 1981 (the Consent Order period). The Consent Order also resolves the DOE's claim against Quintana as a joint venturer in the QHJV. However, it specifically does not settle the liability of the entity called the QHJV. Consent Order at ¶¶ 203 & 501. The Consent Order specifies that the Howell Corporation, the other joint venturer in the QHJV, would continue to be potentially liable for over $5.4 million, plus nearly $10 million in interest, for its share of violations allegedly committed by the QHJV. *Id.* at ¶ 501. However, because the Consent Order resolves the DOE's claim against Quintana as a joint venturer in the QHJV, we propose that purchasers of covered products from the QHJV be eligible to apply for refunds in this proceeding. Execution of the Consent Order constituted neither an admission by Quintana nor a finding by the DOE that Quintana violated any statute or regulation. Consent Order at ¶ 504.

Pursuant to the Consent Order, Quintana agreed to pay to the DOE the amount of $3,800,000 (the Consent Order funds). The Consent Order funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE. This Decision and Order sets forth the OHA's plan for distributing these funds to qualified purchasers of Quintana's and/or the QHJV's covered petroleum products.

II. Summary of Proposed Refund Procedures

As we indicated in the PD&O, the Quintana and QHJV Consent Order provides for a global settlement. Therefore, the Consent Order resolves all alleged and potential regulatory violations of the regulations governing both crude oil and refined petroleum products. The Consent Order provides no guidance regarding the allocation of the funds between crude oil and refined products. However, based upon the global language of the Consent Order, we proposed to divide the Consent Order fund into two pools. We proposed to put $950,000 in the crude oil pool, and $2,850,000 in the refined product pool. We proposed to distribute the Quintana and QHJV crude oil monies in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 52 FR 27899 (August 4, 1986), using the procedures described in *New York Petroluem, Inc.*, 18 DOE ¶ 85,435 (1988).

The PD&O also outlined procedures under which purchasers of Quintana's and/or the QHJV's refined covered products could apply for refunds. In

order to permit applicants to make refund claims without incurring disproportionate costs as well as to allow the OHA to equitably and efficiently consider those claims, we set forth a number of presumptions pertaining to both aspects of the refund procedures.

First, we presumed that the potential refined product overcharges were spread evenly over all of Quintana's and the QHJV's sales of refined covered products during the Consent Order period. We therefore proposed that an applicant's maximum potential refund generally should be computed by multiplying the per-gallon refund amount by the number of gallons of Quintana's and/or the QHJV's refined covered products that the claimant purchased during the Consent Order period. The resulting figure is referred to as the claimant's "volumetric share" of the Quintana and QHJV Consent Order funds. However, because an applicant may have been overcharged by more than the volumetric amount, we proposed that an applicant could rebut the volumetric refund presumption by showing that it sustained a greater amount of overcharge.

Because it is potentially difficult, time-consuming, and expensive, to demonstrate that one was forced to absorb any overcharges by Quintana and/or the QHJV, we proposed to adopt a number of presumptions concerning injury. For example, we proposed that resellers and retailers claiming refunds of $5,000 or less, end-users, agricultural cooperatives, and certain types of regulated firms would be presumed injured by Quintana's and/or the QHJV's potential overcharges. We also proposed to presume that claimants who made only spot purchases from Quintana and/or the QHJV were not injured and must rebut that presumption to receive a refund. We stated that applicants not covered by one of these injury presumptions would be required to demonstrate that they were forced to absorb any overcharge by Quintana and/or the QHJV in order to receive their full volumetric shares of the Quintana and QHJV Consent Order funds.

III. Comments on and Changes to the Proposed Decision and Order

As we stated earlier, the PD&O was published in the **Federal Register** on May 7, 1990, and comments on the proposed procedures were solicited. 55 FR 18941 (May 7, 1990). Two parties filed comments on the proposed refund procedures. Those comments concerned: (1) The division of the Consent Order funds between the crude oil and refined products pools; (2) the adequacy of the 20 percent reserve for direct claims from the crude oil pool; (3) adoption of a $10,000 limit on the small claims presumption for resellers, retailers and refiners rather than the proposed $5,000 limit. We will address those comments below. We will also discuss other changes in the PD&O that the OHA is adopting for this proceeding.

A. Allocation of the Quintana and QHJV Consent Order Fund between Crude Oil and Refined Products

As we stated in the PD&O, we proposed to allocate 25 percent of the Consent Order funds to the crude oil pool and 75 percent to a refined products pool. Attorney Philip P. Kalodner filed comments on behalf of several Utilities, Transporters and Manufacturers. He maintains that all of the money should all be put in the crude oil refund pool because the only violations alleged by the ERA were of the regulations governing crude oil. Therefore, he asserts, there is no basis for allocating any of the Consent Order funds to a refined product pool.

We are not persuaded by Mr. Kalodner's arguments that all of the Consent Order funds should be put in the crude oil pool. We have said in a number of other proceedings that determining the proper division of a settlement fund is an intricate process which involves balancing a number of issues and concerns. *E.g., Tesoro Petroleum Corp.*, 20 DOE ¶ 85,665 (1990) (*Tesoro*). For example, we consider the nature of the settlement reached, the size of the Consent Order firm, the scope of its operations, the information available in the ERA audit files, the applicable enforcement documents, the relative accuracy of information contained in the foregoing documents, and numerous other factors. Even in cases where the ERA makes specific suggestions regarding the division of the Consent Order funds, the OHA has the discretion to make a final determination regarding the most equitable allotment of funds.

The Quintana Consent Order is a global settlement; that is, it settles all of Quintana's potential liability with regard to its compliance with the federal petroleum price and allocation regulations. Thus, the Consent Order is not limited to the specific allegations in the existing enforcement documents issued to Quintana. It settles all regulatory violations on the part of Quintana regardless of whether the violations had been formally alleged at the time of settlement. However, the Consent Order provides no specific guidance regarding the allocation of the Consent Order funds between refined products and crude oil. The Consent Order settles:

> [a]ll pending and potential civil and administrative claims, whether or not known, demands, liabilities, causes of action or other proceedings by the DOE against Quintana regarding Quintana's compliance with and obligations under the federal petroleum price and allocation regulations during the period covered by this Consent Order, whether or not heretofore raised by an issue letter, Notice of Probable Violation, Notice of Proposed Disallowance, Proposal Remedial Order, Remedial Order, action in court or otherwise, including DOE's claim against Quintana as a joint venturer in the Quintana-Howell Joint Venture, are resolved and extinguished as to Quintana by this Consent Order.

Consent Order at ¶ 501. The phrase federal petroleum price and allocation regulations is defined by the Consent Order as:

> all statutory requirements and administrative regulations and orders regarding the pricing and allocation of crude oil, refined petroleum products, natural gas liquids, and natural gas liquid products, including the entitlements and mandatory oil imports programs, administered by the DOE. The federal petroleum price and allocation regulations include (without limitation) the pricing, allocation, reporting, certification, and recordkeeping requirements imposed by or under the recordkeeping requirements imposed by or under the Economic Stabilization Act of 1970, the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974, Presidential Proclamation 3279, and all applicable DOE regulations codified in 6 CFR parts 130 and 150 and 10 CFR parts 205, 210, 211, 212 and 213, and all rules, rulings, guidelines, interpretations, clarifications, manuals, decisions, orders, notices, forms, and subpoenas relating to the pricing and allocation of petroleum products.

Consent Order at ¶ 203. To look exclusively at the PRO issued to Quintana by the ERA on June 24, 1988, as Mr. Kalodner suggests, ignores the global nature of this settlement. The PRO was issued to Quintana and the Howell Corporation for violations allegedly committed by the QHJV. However, the language in the Consent Order (cited above) relating to the issues resolved clearly intends to relieve Quintana of any potential liability for its own actions under the federal petroleum price and allocation regulations, as well as Quintana's liability regarding the actions of the QHJV. The Consent Order clearly absolves Quintana of liability for undiscovered violations of the regulations governing the pricing of refined petroleum products. Therefore, Mr. Kalodner is clearly wrong when he states that the OHA has no basis for

allocating funds to a refined product pool. Moreover, the PRO does not represent a final assessment that the OHJV violated the crude oil regulations. Therefore, we reiterate that, based upon our experience in these matters, we believe that it is likely that the firms had significant exposure in the refined product area. However, Mr. Kalodner's arguments have prompted us to reevaluate our proposed allocation between the crude oil and refined products pools. We have decided that it is appropriate to allocate a larger portion of the Consent Order funds to the crude oil pool. In the PD&O, we proposed to put 25 percent of the Consent Order funds in the crude oil pool and 75 percent in a refined products pool. Under that proposed allocation, the refined products pool would have a relatively large volumetric refund amount, i.e., $.002364 per gallon.[1] Generally, refined product refund proceedings involving firms that did not sell natural gas liquids (NGLs) or natural gas liquid products (NGLPs) would not have such a large volumetric refund amount.[2] Therefore, we believe that it is reasonable to change the allocation so that 50 percent of the Consent Order funds will go to the crude oil pool and 50 percent to a refined products pool. Accordingly, we will allocate $1,900,000, plus interest, of the Consent Order funds to the crude oil pool and $1,900,000, plus interest, to a refined products pool. The volumetric refund amount for the refined products pool calculated under this revised allocation is now $.001575 per gallon. See Section IV.C. below.

B. The 20 percent Reserve for Direct Claimants from the Crude Oil Pool

Mr. Kalodner also filed objections regarding the OHA's intent to set aside 20 percent of the monies allocated to the crude oil pool for direct restitution to injured parties. Mr. Kalodner has incorporated by reference his objections filed in the *Tesoro* proceeding. *Tesoro*, 20 DOE at 89,524. In *Tesoro*, Mr. Kalodner maintains that at least 22 percent of all crude oil monies will be necessary to meet all direct crude oil claims. Therefore, he suggested that 100 percent of the Tesoro crude oil monies go to satisfy direct claims. We assume that he is now suggesting that 100 percent of the Quintana and QHJV crude oil funds go to satisfy direct claims. Mr. Kalodner has raised, and the OHA has addressed, virtually the same arguments in numerous previous proceedings. See *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 at 88,701 (1988); *Getty Oil Co.*, 18 DOE ¶ 85,808 at 89,322 (1989). Therefore, it will be sufficient to emphasize that under the terms of the court-approved Settlement Agreement, the amount of a settlement fund which the OHA reserves for direct restitution may not exceed 20 percent. Settlement Agreement ¶ IV.B.6, 6 Fed. Energy Guidelines ¶ 90,509 at 90,665. Furthermore, there is no clear evidence to suggest that the 20 percent reserve amount is insufficient for direct restitution. See *Con. Ed.* v. *Herrington*, 3 Fed. Energy Guidelines ¶ 26,637 (D.D.C. May 14, 1990). Accordingly, we will allocate 20 percent of the crude oil funds for direct restitution to crude oil claimants. In addition, we will direct the DOE's Office of the Controller to distribute 40 percent to the states and 40 percent to the federal government.

C. Increasing the Maximum Small Claims Refund from $5,000 to $10,000

The Kerr-McGee Corporation has filed a comment suggesting that we raise the small claims presumption of injury from a $5,000 to a $10,000 maximum. Kerr-McGee points out the proposed Quintana volumetric refund amount of $.002364 per gallon is relatively large and the OHA has used a $10,000 small claims level in several other proceedings where the volumetric refund amount was similarly large. *Texaco, Inc.*, 20 DOE ¶ 85,147 (1990) (*Texaco*); *Thomas P. Reidy*, 20 DOE ¶ 85,437 (1990) (*Reidy*). In *Texaco* and *Reidy* we found that because the volumetric refund amounts were large ($.0011/gallon and $.002706/gallon respectively), many applicants who purchased relatively small volumes would be unable to receive full volumetric refunds under the small claims presumption. Consequently, we raised the maximum small claims refund from $5,000 to $10,000. As we discussed above, we have changed the allocation of the Consent Order funds between the crude oil and refined products pools. Therefore, the volumetric amount has been lowered from $.002364 to $.001575 per gallon. However, the $.001575 per gallon is still larger than the volumetric amount in *Texaco*. Therefore, the same considerations that were present in that proceeding apply to this proceeding given the relatively large volumetric refund amount. Thus, we are raising the maximum small claims refund in this proceeding to $10,000. We will discuss the requirements for recieving a refund under the small claims presumption of injury below.

D. Mid-level Presumption of Injury

The OHA has also decided to add a 40 percent mid-level presumption of injury to this proceeding. The OHA has been evolving toward the application of a mid-level presumption of injury in most cases. In a number of recent small proceedings, the OHA has stated that a 40 percent mid-level presumption is generally sound and reflects our belief that larger claimants were likely to have experienced some injury as a result of the alleged violations. *West Coast Oil Co.*, 20 DOE ¶ 85,583 at 89,337 (1990); *see also Fletcher Oil & Refining Company, Inc.*, 20 DOE ¶ 85,513 at 89,172 (1990). The OHA has no reason to believe that Quintana and the QHJV were not typical in their pricing practices. The use of a mid-level presumption of injury serves dual purposes. It allows larger claimants to receive some restitution for the loss that they likely suffered without incurring inordinate expense in compiling a claim. It also ensures that refund claims are evaluated by the OHA in the most efficient manner possible. Accordingly, we believe that it is appropriate to apply a 40 percent mid-level presumption in the present proceeding. The specific procedures that a claimant must follow for a mid-level refund will be discussed below.

E. The Refund Period

The OHA has also determined that while the Consent Order period begins on January 1, 1973, refund applications may only be based on purchases made between August 1973 and the day preceding the relevant decontrol dates for the products claimed. Claimants may not claim refunds for their purchases made prior to August 1973, because neither Quintana nor the QHJV sold refined petroleum products prior to that time.[3]

IV. Refund Procedures

A. Distribution of the Quintana Crude Oil Funds

We have decided that the Quintana and QHJV crude oil monies, $1,900,000,

[1] The volumetric is calculated by dividing the portion of the Consent Order funds allocated to the refined products pool by the total volume of covered refined products sold by Quintana and the QHJV. Quintana and the QHJV sold a total of 1,206,266,699 gallons of covered products during the period from August 1973 through January 27, 1918.

[2] The language cited above from ¶ 203 of the Consent Order indicates that Quintana and/or the QHJV sold NGLs and NGLPs. However, Quintana has assured the OHA that neither it nor the QHJV sold NGLs or NGLPs. See Record of Telephone Conversation between Richard McKee, Manager, Internal Audit, Quintana Petroleum Corporation, and Raymond P. Rayner, Jr., OHA Attorney Advisor (February 27, 1990); Letter from Richard McKee to Raymond P. Rayner, Jr. (March 5, 1990); Record of Telephone Conversation between Richard McKee and Raymond P. Rayner, Jr. (April 6, 1990).

[3] *See* Record of Telephone Conversation between Richard McKee and Raymond P. Rayner, Jr. (November 29, 1990).

plus interest, be disbursed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP), 51 Fed. Reg. 27899 (August 4, 1986), using the procedures described in *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988).[4] Up to 20 percent of those funds, $380,000, will be distributed to injured parties in the DOE's Subpart V crude oil refund proceeding. Refunds to eligible claimants in that proceeding will be based on a per-gallon refund amount derived by dividing the sum of all crude oil overcharge monies in escrow by the total U.S. consumption of petroluem products during the period of federal petroleum price controls.[5] The principal volumetric refund amount associated with the Quintana and QHJV crude oil funds is $0.00000094 per gallon. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. A deadline of June 30, 1988 was established for the first pool of crude oil funds. The first pool was funded by crude oil refund proceedings, implemented pursuant to the MSRP, up to and including *Shell*. A deadline of October 31, 1989 was established for applications for refunds from the second pool of crude oil funds. The second pool was funded by those crude oil proceedings beginning with *World Oil Co.*, 17 DOE ¶ 85,568, *corrected*, 17 DOE ¶ 85,669 (1988), and ending with *Texaco Inc.*, 19 DOE ¶ 85,200, *corrected*, 19 DOE ¶ 85,236 (1989). The deadline for filing an application for refund from the third pool of funds was established as March 31, 1991 by *Bi-Petro, Inc.*, 20 DOE ¶ 85,071 (1990). The third pool was funded by those crude oil proceedings ending with *Benton Pruet d/b/a P&R Trading Company; Trigon Exploration Company, Inc., et al.*, Case Nos. LEF–0018; LEF–0019 (December 13, 1990). The deadline for filing an Application for Refund from the fourth pool of crude oil funds will be June 30, 1992. The volumetric refund amount for the fourth pool of funds will be increased as additional crude oil violation amounts are received in the future. Notice of any additional amounts available in the future will be published in the **Federal Register**. For further information concerning application procedures in the Subpart V crude oil proceeding, see *Petrol Products, Inc.*, 20 DOE ¶ 85,436 (1990).

Under the terms of the MSRP, 80 percent of the Quintana and QHJV crude oil funds, $1,520,000, plus interest, as well as any portion of the above-mentioned 20 per cent reserve which is not distributed, will be divided equally between the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. *E.g., id.* at 88, 142–143.

B. Eligibility for Refunds from the Refined Product Funds

As indicated in the PD&O, the firms and individuals that purchased Quintana's or the QHJV's controlled refined products during the refund period may file claims in this proceeding. From our experience with Subpart V refund proceedings, we believe that potential claimants will fall into the following categories: (1) end-users; (2) regulated non-petroleum industry entities such as public utilities or cooperatives; and (3) resellers, retailers and refiners.

The settlement amount of $1,900,000, plus accrued interest, will be available for distribution to purchasers of Quintana's and/or the QHJV's, refined petroleum products during the period August 1973 through the date when the specific product claimed was decontrolled.[6]

As in many prior special refund proceedings, we are adopting certain presumptions that will permit claimants to participate in the refund process without incurring inordinate expense and will enable the OHA to consider the matter in the most efficient manner possible. *See* 10 CFR 205.282(e), Subpart V; *see also American Pacific International*, 14 DOE ¶ 85,158 (1986) (*API*).

C. Calculation of Refund Amount

We are adopting a volumetric method to apportion the Quintana escrow account. We will derive the volumetric figure by dividing the $1,900,000 allocated from the Quintana Consent Order funds to the refined products pool by the total volume of covered products sold by Quintana and the QHJV during the period from August 1973 through January 27, 1981. This yields a volumetric refund amount of $.001575 per gallon, exclusive of interest.[7] This method is based upon the presumption that any potential overcharges were spread equally over all gallons of covered products sold by Quintana and/or the QHJV during the period when the refined products that they sold were controlled.[8]

Under the volumetric approach, an eligible claimant will receive a refund equal to the number of gallons of covered products that it purchased from Quintana and/or the QHJV from the beginning of the refund period until the last day that the products claimed were controlled, multiplied by the per gallon volumetric amount for this proceeding. In addition, each successful claimant will receive a pro rata portion of the interest that has accrued on the Quintana refined product funds since the date of remittance.

As in previous cases, we will establish a minimum amount of $15 for refund claims. *E.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982) (*Uban*).

1. Showing of Injury

Each claimant will be required to document its purchases of Quintana's and/or the QHJV's covered products. In addition, we will require an applicant to demonstrate that it was injured by the alleged overcharges. In order to demonstrate that it did not subsequently raise its prices and thereby recover the increased costs associated with Quintana's and/or the QHJV's alleged overcharges, a claimant will have to show that it maintained banks of unrecovered product costs. We are willing to accept information establishing with reasonable likelihood that a claimant had banks. *Seminole Refining, Inc.*,12 DOE ¶ 85,188 (1985); *see also, Bayou State Oil Corp.*, 12 DOE ¶ 85,197 (1985). In order to demonstrate injury, a claimant must also show that market conditions would not permit it to

[4] Shortly after issuance of the MSRP, the OHA announced its intention to apply the MSRP in all Subpart V proceedings involving alleged crude oil violations and solicited comments concerning the refund procedures. 51 Fed. Reg. 29689 (August 20, 1986). On April 10, 1987, the OHA issued a Notice analyzing the comments and setting forth final procedures regarding applications for crude oil refunds. 52 Fed. Reg. 11737 (April 10, 1987).

[5] It is estimated that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel Supply Company*, 14 DOE ¶ 85,475 at 88,868 n. 4. (1986).

[6] For example, middle distillates (such as No. 2 fuel oil) were decontrolled on July 1, 1976. Therefore, no claim can be made for middle distillates purchased from Quintana and/or the QHJV after June 30, 1976. 41 FR 24516 (June 16, 1976).

[7] Quintana and the QHJV sold a total of 1,206,266,699 gallons of covered products during the period from August 1973 through January 27, 1981.

[8] Nevertheless, we realize that the impact on an individual claimant may have been greater than the volumetric amount. Therefore, the volumetric presumption will be rebuttable, and we will allow a claimant to submit evidence detailing the specific overcharges that it incurred in order to be eligible for a larger refund. *E.g., Standard Oil Co./Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

pass through those increased costs to its customers. *E.g., API*, 14 DOE ¶ 85,158 at 88,295 (1986).[9]

2. Small Claims Presumption

We are also adopting a presumption, as we have in other proceedings, that resellers, retailers and refiners seeking refunds of $10,000 or less were injured by Quintana's and/or the QHJV's pricing practices. *E.g., Reidy*, 20 DOE at 89,015. Under this small claims presumption, an applicant seeking a total refund of $10,000 or less will not be required to make a detailed demonstration of injury. Such an applicant need only document its purchase volume of Quintana and/or QHJV covered products.

3. Mid-level Reseller, Retailer and Refiner Claimants

In lieu of making a detailed showing of injury, a reseller, retailer or refiner claimant whose allocable share exceeds $10,000 may elect to receive as its refund the larger of $10,000 or 40 percent of its allocable share up to $50,000. An applicant in this group will only be required to provide documentation of its purchase volumes of Quintana and/or QHJV covered products during the refund period in order to be eligible to receive a refund of 40 percent of its total volumetric share, or $10,000 whichever is greater. *E.g., Id.*, at 89,016.

4. End-Users

We are adopting the presumption that end-users, i.e. ultimate consumers, whose businesses are unrelated to the petroleum industry, were injured by Quintana's and/or the QHJV's pricing practices. *API*, 14 DOE at 88,294; see also *Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). Therefore, end-users of Quintana's and/or the QHJV's refined products need only document their purchase volumes of Quintana's and/or the QHJV's covered products to make a sufficient showing of injury.

5. Regulated Firms and Cooperatives

Claimants whose prices for goods and services are regulated by a government agency (such as a public utility), or by the terms of a cooperative agreement need only submit documentation of the volume of covered products purchased by them, that were used by themselves or, in the case of cooperatives, sold to their members in order to receive a full volumetric refund. However, regulated firms or cooperatives will be required to certify that they will pass any refund on to their customers or member-customers, provide us with a full explanation of how they plan to accomplish the restitution, and certify that they will notify the appropriate regulatory body or membership group of their receipt of the refund. *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,514 (1986); see also *Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We will not require a public utility seeking a refund of $10,000 or less to submit the above referenced certifications and explanation. *E.g., Reidy*, 20 DOE at 89,015. Sales of covered products by cooperatives to non-members will be treated in the same manner as sales by other resellers or retailers.

6. Indirect Purchasers

Firms that made indirect purchases of Quintana's and/or the QHJV's covered products may also apply for refunds. If an applicant did not purchase directly from Quintana and/or the QHJV, but believes that covered products it purchased from another firm were originally purchased from Quintana and/or the QHJV, the applicant must establish its basis for that belief and identify the reseller from whom the products were purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of Quintana and/or QHJV products passed through Quintana's and/or the QHJV's potential overcharges to its own customers. *E.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

7. Spot Purchasers

We are adopting the rebuttable presumption that a claimant who made only spot purchases from Quintana and/or the QHJV was not injured as a result of those purchases. A claimant is a spot purchaser if it made only sporadic purchases of significant volumes of Quintana's and/or the QHJV's covered products. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Quintana and/or the QHJV. *Gulf Oil Corp.*, 16 DOE ¶ 85,381 at 88,741 (1987); *see also Office of Enforcement*, 8 DOE ¶ 85,597 at 85,396–97 (1981).

8. Applicants Seeking Refunds Based on Allocation Claims

We also recognize that, while the Consent Order makes no allegation of known allocation violations, we may receive claims alleging Quintana's and/or the QHJV's failure to furnish petroleum products that it was obliged to supply under the DOE allocation regulations that became effective in January 1974. *See* 10 C.F.R. Part 211. Such claims could be based on the Consent Order's broad language regarding the matters settled. *See* Section III above. Therefore, any such application will be evaluated with reference to the standards set forth in subpart V implementation decisions such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *Mobil Oil Corp./Reynolds Industries, Inc.*, 17 DOE ¶ 85,608 (1988), *Marathon Petroleum Corp./Research Fuels, Inc.*, 19 DOE ¶ 85,575 (1989). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the Consent Order firm and the likelihood that the Consent Order firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant should provide evidence that it sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

In our evaluation of whether allocation claims meet these standards we will consider various factors. For example, we will seek to obtain as much information as possible about the DOE's treatment of complaints made to it by the claimant. We will also look at any affirmative defenses that Quintana and/or the QHJV may have had to the alleged allocation violation. *E.g., id.* In assessing an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business operations with particular reference to the amount of product that it received from suppliers other than Quintana and/or the QHJV. In determining the amount of an allocation refund, we will utilize any information that may be available regarding the amount of the Quintana and/or the QHJV allocation violations in general and regarding the specific allocation violation alleged by the claimants. Finally, since the Consent Order reflects a negotiated compromise of the issues involved in an enforcement proceeding against Quintana and/or the QHJV, as well as potential unknown violations, and the Consent Order amount is therefore less than Quintana's and/or the QHJV's potential liability, we will pro rate any allocation refunds that

[9] In a recent Decision, the Temporary Emergency Court of Appeals affirmed the OHA's standards for a demonstration of injury. The court specifically upheld the method used to evaluate comparative market price and thereby determine competitive disadvantage. *Behm Family Corp. v. DOE*, 903 F.2d 830 (Temp. Emer. Ct. App. 1990).

would otherwise be disproportionately large in relation to the Consent Order fund. *Cf. Amtel, Inc./Whitco, Inc.*, 19 DOE ¶ 85,319 (1989).

V. General Refund Application Requirements for the Refined Products Pool

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased controlled refined petroleum products sold by Quintana and QHJV during the period between August 1973 until the product claimed was decontrolled. There is no specific application form that must be used. However, the following information should be included in all Applications for Refund:

(1) The name of the Consent Order firm, Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company, the case number (KEF–0131) and the applicant's name should be prominently displayed on the first page.

(2) The name, title, and telephone number of a person who may be contacted for additional information concerning the Application.

(3) The use(s) of the Quintana and/or QHJV refined product(s) by the applicant, i.e., reseller, retailer, refiner, and end-user, public utility or cooperative.

(4) Monthly schedules of the applicant's purchases of each type of refined petroleum project that it purchased from Quintana and/or the QHJV from August 1973 until the product was decontrolled must be submitted. The applicant should indicate the source of this volume information. Monthly schedules should be based upon actual, contemporaneous business records. If such records are not available, the applicant may submit estimates provided that those estimates are reasonable and the estimation methodology is explained in detail.

(5) If the applicant was an indirect purchaser, it should submit the name, address and telephone number of its immediate supplier and indicate why it believes that the covered product was originally sold by Quintana or the QHJV.

(6) If the applicant is a reseller, retailer or refiner whose volumetric share exceeds $10,000, it must indicate whether it elects to receive $10,000 under the small claims presumption of injury. If it does not elect the presumption of injury, it must submit a detailed showing that it was injured by Quintana's and/or the QHJV's pricing practices. See Section IV.C.1.

(7) A statement whether the applicant or a related firm has filed, or authorized any individual to file on its behalf, any other Application for Refund in the Quintana proceeding, and if so, an explanation of the circumstances surrounding that filing or authorization.

(8) A statement whether the applicant was in any way affiliated with Quintana and/or the QHJV. If so, the applicant should explain the nature of the affiliation.

(9) A statement whether there has been any change in ownership of the entity that purchased the Quintana and/or QHJV covered products at any time during or after the Consent Order period. If so, the name and address of the current (or former) owner should be provided.

(10) A statement of whether the applicant is or has been involved as a party in any DOE private Section 210 enforcement actions. If these actions have been terminated, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of the Application for Refund. See 10 CFR 205.9(d).

(11) The following signed statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001.

All Applications for Refund must be filed in duplicate and must be filed no later than November 29, 1991. A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its Application contains confidential information must so indicate on the first page of the Application and must submit two additional copies of its Application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is privileged or confidential. All Applications should be sent to:

Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company Refund Proceeding. Case No. KEF–0131, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

VI. Distribution of Refunds Remaining After Consideration of All Refined Product Refund Applications

In the event that money remains after all meritorious refund applications have been processed, the funds in the Quintana refined products escrow account will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA). 15 U.S.C.A. 4501–4507 (West Supp. 1990).

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company pursuant to the Consent Order finalized on March 9, 1989, may now be filed.

(2) Applications for Refund from the Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company refined product pool must be postmarked no later than November 29, 1991.

(3) Applications for Refund from the Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company crude oil pool must be postmarked no later than June 30, 1992 and filed pursuant to the procedures established in *Petrol Products, Inc.*, 20 DOE ¶ 85,436 (1990).

(4) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $1,900,000, plus accrued interest, from the Quintana Energy Corporation, Quintana Refinery Co. and Quintana Petrochemical Company subaccount, Account Number 650X00356Z, pursuant to Paragraphs (5), (6), and (7) of this Decision.

(5) The Director of Special Accounts and Payroll shall transfer $760,000, plus accrued interest, of the funds obtained pursuant to paragraph (4) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(6) The Director of Special Accounts and Payroll shall transfer $760,000, plus accrued interest, of the funds obtained pursuant to paragraph (4) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(7) The Director of Special Accounts and Payroll shall transfer $380,000, plus accrued interest, of the funds obtained pursuant to paragraph (4) above, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE010Z.

Dated: January 18, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-1946 Filed 1-25-91; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1835]

Petitions for Reconsideration of Actions in Rule Making Proceedings

January 18, 1990.

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC., or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed February 13, 1991. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

T3Subject: Amendment of parts 21, 43, 74, 78, and 94 of the Commission's Rules, Pertaining to Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service. (General Docket No. 90-54 and General Docket No. 80-113) Number of petitions filed: 12.[1]

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-1963 Filed 1-25-91; 8:45am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and state	File No.	MM docket No.
A. Moody Bible Institute; Lexington-Fayette, KY.	BPED-880818ML	90-600
B. Michael David Mahaffey; Lexington-Fayette, KY.	BPH-880824MC	
C. Cynthia W. Ware; Lexington-Fayette, KY.	BPH-880824ML	
D. Henry Kenney, Jr.; Lexington-Fayette, KY.	BPH-880824MN	
E. SPANS Limited Partnership; Lexington-Fayette, KY.	BPH-880825MG	
F. David Earl Hoxeng d/b/a ADX Communications of Lexington; Lexington-Fayette, KY.	BPH-880825MH	
G. John Barrett Townsend II and Frances Pride Townsend d/b/a Bethany-Barrett Broadcasting; Lexington-Fayette, KY.	BPH-880825MK	
H. 21st Century Communications Limited Partnership; Lexington-Fayette, KY.	BPH-880825MR	
I. Stanley/Lexington, Ltd.; Lexington-Fayette, KY.	BPH-880825MX	
J. SST, Inc.; Lexington-Fayette, KY.	BPH-880825MY	
K. Lexington Urban Communications Limited Partnership; Lexington-Fayette, KY.	BPH-880825NB	
L. Santee Broadcasting, Inc.; Lexington-Fayette, KY.	BPH-880825NE	
M. Helen V. Miller and Nancy S. Millar d/b/a Millar Broadcasting Company; Lexington-Fayette, KY.	BPH-880825NI	
N. Suzanne E. Villeneuve; Lexington-Fayette, KY.	BPH-880825NN	
O. Sojourner Communications Limited Partnership; Lexington-Fayette, KY.	BPH-880825NT	
P. Ocean Waves Broadcasting; Lexington-Fayette, KY.	BPH-880825OB	
Q. Susan L. Caller; Lexington-Fayette, KY.	BPH-880825OD	
R. Robert A. Manning and Gary L. Cox, A Partnership d/b/a Atlantic Radio Partners; Lexington-Fayette, KY.	BPH-880825OH	
S. Patrick D. McConnell; Lexington-Fayette, KY.	BPH-880825OJ	
T. NIK-O-LIN, INC.; Lexington-Fayette, KY.	BPH-880825OL	
U. Jack L. Givens; Lexington-Fayette, KY.	BPH-880825OQ	
V. DJC, Ltd.; Lexington-Fayette, KY.	BPH-880825PA	
W. Pamela R. Jones; Lexington-Fayette, KY.	BPH-880811MG (dismissed herein)	
X. Press Broadcasting Co.; Lexington-Fayette, KY.	BPH-880825MC (dismissed herein)	
Y. Urban Kentucky Broadcasters, Inc.; Lexington-Fayette, KY.	BPH-880825ME (dismissed herein)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 F.R. 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issued Heading and Applicant(s)

1. Alien Control, E
2. Financial Qualifications, E,P,R
3. Comparative, All
4. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW.,

[1] Although the Communications-Link pleading is styled as comments on the outstanding Further Notice of Proposed Rule Making in this proceeding (5 FCC Rcd 6472), the sole issue it raises was resolved in the Report and Order and is not addressed in the Further Notice. We also note that Communications-Link filed its pleading prior to the deadline for filing petitions for reconsideration of the Report & Order. Accordingly, the pleading will be treated as a petition for reconsideration.

Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 91–1964 Filed 1–25–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–891–DR]

Indiana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana (FEMA–891–DR), dated January 5, 1991, and related determinations.

DATED: January 15, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Indiana, dated January 5, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 5, 1991:

The counties of Fountain, Jasper, Scott, Switzerland, and Warren for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–1863 Filed 1–25–91; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 233–011316.

Title: P&O Containers Limited, Nedlloyd Lijnen B.V., Sea-Land Service, Inc./The Shipping Corporation of India, Limited Space Charter Agreement a/k/a "11171/SCI Space Charter".

Parties: P&O Containers Limited, Nedlloyd Lijnen, B.V., Sea-Land Service, Inc., The Shipping Corporation of India Limited (SCI) ("the 11171 parties").

Synopsis: The proposed Agreement would permit the 11171 parties to charter space to SCI in the trade between U.S. East and Gulf Coast ports and European ports, except ports or inland points served via those ports in the United Kingdom and Continental Europe. It would permit the parties to rationalize schedules and sailing, lease and interchange equipment and share terminals.

By Order of the Federal Maritime Commission.

Dated: January 22, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–1851 Filed 1–25–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

[Docket No. R–0721]

RIN 7100–AA76

Proposals To Modify the Payments System Risk Reduction Program; Measurement of Daylight Overdrafts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

SUMMARY: The Board is requesting comment on a proposed method for posting debits and credits to depository institutions' accounts at Federal Reserve Banks in order to measure daylight overdrafts accurately. Accurate measurement of daylight overdrafts will be necessary in order to assess fees for daylight overdrafts, which the Board anticipates implementing in the future as part of its payments system risk reduction program. The Board has also adopted minor modifications to the procedure it adopted in May 1990 for measuring book-entry securities overdrafts.

DATES: Comments must be submitted on or before May 31, 1991.

ADDRESSES: Comments, which should refer to Docket No. R–0721, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, Attention: Mr. William W. Wiles, Secretary; or may be delivered to room B–2223 between 9 a.m. and 5 p.m. All comments received at the above address will be included in the public file and may be inspected at Room B–1122 between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director, Division of Research and Statistics (202/452–3368); Bruce Summers, Deputy Director (202/452–2231) or Florence Young, Assistant Director (202/452–3926), Division of Reserve Bank Operations and Payment Systems; Oliver I. Ireland, Associate General Counsel (202/452–3625) or Stephanie Martin, Attorney (202/452–3198), Legal Division; for the hearing impaired only: Telecommunicatioins Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: One of the purposes of the Board's payments system risk reduction program is to reduce both direct credit risk to the Federal Reserve and systemic risk. Direct credit risk to the Federal Reserve could be caused by the inability of a depository institution to settle its intraday overdraft at a Federal Reserve Bank before the end of the day. The banking system would be exposed to systemic risk if a participant in a private large-dollar payments network were unable or unwilling to settle its net debit position on that network. Such failures could cause creditors of the failing institution, in turn, to be unable to settle their own commitments. Serious repercussions could, as a result, spread to other participants in the network, to other depository institutions outside of the network, and to the nonfinancial economy in general. The Federal Reserves would bear an indirect risk if a large number of depository institutions simultaneously faced severe liquidity constraints. Furthermore, on either private wire systems or Fedwire, depository institutions create risk by permitting their customers, including other depository institutions, to transfer uncollected balances over wire systems in anticipation of their coverage by the end of the day.

In June 1989, the Board requested comment on a comprehensive set of changes to its payments system risk reduction program (54 FR 26090, June 21, 1989). Those proposed changes included the pricing of daylight overdrafts in

accounts at Reserve Banks and an overdraft measurement scheme to facilitate pricing, the inclusion of book-entry securities overdrafts in the calculation of total overdrafts, and various changes regarding the overdraft cap structure, capital measurement, and policies pertaining to U.S. agencies and branches of foreign banks. The Board adopted policies regarding book-entry securities, caps, capital, and agencies and branches of foreign banks in May 1990 (55 FR 22087, May 31, 1990). Today, the Board is publishing for comment a modified daylight overdraft measurement scheme. The Board anticipates that it will implement pricing of daylight overdrafts after a measurement scheme is finally adopted.

Current risk reduction program. Under the Board's risk reduction program, depository institutions establish a maximum amount of intraday overdrafts (both funds and book-entry) that they may incur over Fedwire [1]. The maximum, or cap, is a multiple of a depository institution's risk-based capital and is based on the depository institution's self-assessment of its own creditworthiness, credit policies, and operational controls. The guidelines for performing the self-assessment were established by the Board, and the documentation supporting each depository institution's rating is reviewed by the institution's primary supervisory agency examiners. (See 52 FR 29255, August 16, 1987.) Depository institutions with positive caps that frequently exceed their caps by material amounts solely due to book-entry securities activity must fully collateralize their overdrafts attributable to book-entry securities activity. In addition, financially healthy depository institutions with positive caps may choose to collateralize all or part of their book-entry overdrafts, even if they do not exceed their caps. Such secured book-entry securities overdrafts shall not be included with funds or uncollateralized book-entry securities overdrafts to determine an institution's adhereence to its cap.

Under the current definition of daylight overdraft, Fedwire funds and book-entry securities transfers are posted as they are processed during the business day. All non-automated clearning house ("ACH"), non-wire transactions are netted at the end of the banking day; if the net is a credit, that credit is added to the opening-of-the-day balance, and if the net is a debit, the debit is deducted from the end-of-day position. The net of all ACH transactions is posted as if the transactions occurred at the opening of business, regardless of whether the net is a debit or a credit. This *ex post* measure allows a depository institution to use all of its non-wire net credits to offset any wire debits during the day, but postpones the need to cover non-wire, non-ACH net debits until the close of the day.

1989 pricing and measurement proposals. The Board's June 1989 request for comment included a proposal to implement a fee at an annual rate of 25 basis points for average daily total funds and book-entry securities overdrafts in reserve or clearing accounts at Reserve Banks in excess of a deductible of 10 percent of the institution's risk-based capital. The pricing program was proposed to be phased in, with a charge of 10 basis points the first year, 20 basis points the second year, and 25 basis points in the third year and thereafter. The Board expected that explicit fees for Federal Reserve daylight credit would create incentives for depository institutions to reduce overdrafts at Reserve Banks, thereby reducing direct Federal Reserve risk and contributing to economic efficiency. The Board believes that payments system participants, as a result of the market incentives established by the combination of daylight overdraft pricing and settlement finality on CHIPS, would lower the level and more efficiently allocate the distribution of Fedwire and private-sector intraday credit flows.

The Board's daylight overdraft pricing proposal would give funds an intraday value and, therefore, would require precision in measuring intraday overdrafts. Such precision would require fixing the time at which all payment transactions by Reserve Banks are recognized to have occurred for daylight overdraft measurement purposes. The Board proposed that, for purposes of measuring daylight overdrafts, a depository institution's opening balance at the Reserve Bank be adjusted by (1) Credits for U.S. Treasury and government agency book-entry securities interest payments; (2) credits for U.S. Treasury and government agency book-entry securities redemption proceeds; (3) credits for U.S. Treasury ACH recurring credit transactions; and (4) debits for new issues of U.S. Treasury book-entry securities. During the day, Fedwire funds and book-entry securities transactions would be posted as they occurred. At 2 p.m. local time of the Reserve Bank, Treasury direct and special direct investment credits would be posted. After the close of Fedwire, all non-wire and commercial ACH transactions would be posted, regardless of whether the net of those transactions were a credit or a debit. This overdraft measurement proposal would apply equally to all depository institutions with Reserve Bank accounts, including U.S. chartered banks, foreign banks with U.S. agencies and branches, thrifts, bankers' banks, limited purpose trust companies, nonbank banks,[2] and any other such entities. The current measurement scheme and the 1989 proposal are summarized in appendix 1.

Status of pricing proposal. The Board received 216 comments on the June 1989 pricing proposal. Nearly three-quarters of the commenters opposed the proposal, with opposition particularly intense among nonfinancial corporate users of the payments system. Banking organizations were less dramatically opposed, largely because the alternative to pricing (cap reduction) was even less preferable.

In summary, supporters of the pricing proposal focused on (1) Their preference for the use of the price mechanism to allocate and manage risk, (2) the associated benefit of structural changes that will reduce overdrafts, and (3) the inflexibility of the alternative risk reduction options. Opponents of the proposal criticized (1) The potential for gridlock and the burdens on small institutions, bokth of which might accompany delayed sends by larger institutions seeking to avoid overdraft fees, (2) the extra cost of control systems that might be necessary to monitor customers' overdrafts, (3) the difficulties in linking a particular customer's payments and overdrafts to the depository institution's overdrafts subject to fees, (4) the possibility that depository institutions would not build comprehensive customer controls but instead pass on overdraft fees to all customers, (5) the inability of depository institutions and their customers to avoid book-entry securities overdrafts and their associated fees, and (6) the potential impact of such fees on the operations of the U.S. government securities markets.

The Board has considered the public comments and expects to implement a pricing program for daylight overdrafts after an appropriate measurement scheme is adopted, possibly in mid-1991, to be effective in early to mid-1992.

[1] Before January 10, 1991, net debits on the Clearing House Interbank Payments System ("CHIPS") were subject to Federal Reserve limits.

[2] The posting changes would not affect the overdraft restrictions and overdraft measurement provisions for nonbank banks established by the Competitive Equality Banking Act of 1987 and the Board's Regulation Y (12 CFR § 225.52).

Should the Board adopt a pricing program, the details of the program and a full response to the public comments on pricing would be published at the time of adoption.

Measurement of book-entry securities overdrafts. In connection with the policy adopted in May 1990 to include book-entry securities overdrafts within the total overdraft subject to cap, the Board adopted several measurement rules relating to book-entry securities, effective January 10, 1991. Specifically, Treasury and government agency book-entry securities interest payments are posted to an institution's funds balance as of the opening of the business day. The net effect of new Treasury issues and Treasury and government agency redemptions are credited or debited to an institution's book-entry securities balance at the opening of the book-entry day. New issues of government agency securities are posted to book-entry balances as the securities are delivered over Fedwire.

It was the Board's intention that these transactions be posted shortly after the opening of Fedwire in order to provide some time for purchasers of original issues to obtain funding, if needed. The Board today is clarifying that debits for original issues of Treasury securities and credits for interest payments and redemption proceeds of Treasury and government agency securities are to be posted at 9:15 a.m. ET, effective immediately.

In addition, since the adoption of these book-entry securities measurement procedures, the Board has learned that it would be extremely difficult for the Reserve Banks to credit interest payments to depository institutions' funds balances. Because any funds overdrafts will be offset by credits in book-entry securities balances, depository institutions would not be negatively affected if credits for Treasury and government agency securities interest payments were posted to book-entry securities balances. The Board, therefore, has approved a modification to the book-entry measurement scheme whereby such credits will be posted to book-entry securities balances at 9:15 a.m. ET on the interest payment date, effective immediately.

Overview of public comment on proposed posting rules

A total of 319 commenters discussed the proposal to modify the procedures for measuring daylight overdrafts, and only one commenter supported the entire proposal. The majority of commenters, however, concurred with the Board's objective of eliminating the intraday float that is created by the current procedures for measuring daylight overdrafts. The major issues raised by commenters concerning the proposal fell into two broad categories: (1) The effects of the proposal on current cash management practices and (2) the effects of the proposal on funds availability practices.

Effect on Cash Management Practices. Nearly 70 percent of the commenters believed that the proposal would disrupt current cash management practices, without reducing payments system risk. These commenters indicated that funds collected through the check and ACH mechanisms, in particular, are not inherently risky [3] and are routinely used on the availability date to fund investments and to meet other payment obligations. Commenters questioned whether disrupting current cash management practices is warranted. In addition, several commenters were concerned that the proposal would lead to liquidity problems and, therefore, disrupt financial markets.

The Board understands that corporate cash managers typically determine each day's funding needs early in the day and include in their determinations the value of check deposits becoming available, ACH debit transactions that are settling, and checks that must be paid that day. If additional funds are needed, investments may be liquidated or funds may be raised. If excess funds are available, investment decisions are made. Corporate cash managers estimate funding needs or excess balances on a daily basis, without considering the intraday timing of funds becoming available or the time at which payments must be made.

To the extent that corporate payments are funded through check deposits or ACH debit transactions originated by the corporation and depository institutions use the measurement procedures proposed by the Board to determine their customers' intraday account balances, corporate cash managers would not be able to use such funds to cover Fedwire funds or book-entry securities transfers. Rather, corporate cash managers would either need to borrow funds intraday in order to cover some payments or to delay investments of "excess" funds by a day to avoid borrowing funds. Thus, if corporate cash managers did not modify their practices, their costs of making payments would increase due to explicit charges for the use of daylight credit. Alternatively, returns on investments would decline.

Federal Reserve survey data support those commenters that stated that eliminating the intraday float provided through the current procedures for measuring daylight overdrafts would reduce intraday liquidity. Based on survey data for a four-week period ending August 23, 1989, the measurement scheme proposed in 1989 would have resulted in total funds and book-entry daylight overdrafts of $144.7 billion, compared with total overdrafts of $119.2 billion under the current measurement methodology. This increase of about $25 billion in total overdrafts may be used as a proxy for the amount of unpriced or free liquidity that the proposal would have removed from the payments system. To put this figure in perspective, $25 billion amounts to approximately 3 percent of daily average Fedwire funds transfer dollar volume. While reducing intraday unpriced liquidity by 3 percent is not insignificant, the reduction or elimination of float currently created by the Federal Reserve's daylight overdraft measurement procedures should cause depository institutions to modify their behavior in an attempt to avoid increasing their use of intraday credit.

Fund Availability Practices. Nearly 40 percent of the commenters indicated that, if the proposal were adopted, depository institutions would delay funds availability to their customers for check deposits and ACH transactions. A number of other commenters, primarily corporate credit unions and large correspondent banks, noted that adoption of the proposal would prevent them from making some payments for their customers and/or investing "excess" reserve balances.

A few commenters noted that competitive pressures should prevent depository institutions from changing their availability practices for check and ACH transactions significantly. On the other hand, adoption of the proposal might require depository institutions to use Federal Reserve credit to make funds available to customers for check deposits that are treated as next-day availability items under Regulation CC.[4]

[3] From a credit risk perspective, the primary source of risk in collecting funds through the check and ACH debit mechanisms is return items. Because return items may not be received until four or five days after funds have been credited to collecting institutions, delaying credits on the availability date does not provide a meaningful mechanism for controlling return item risk.

[4] Under Regulation CC, depository institutions are required to make funds available to their customers for the following types of checks at the opening of business on the business day following the banking day of deposit: Treasury checks, Postal money orders, checks drawn on Federal Reserve Banks and

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The commenters argued that the proposal to provide credit to collecting institutions after the close of Fedwire for such checks contradicted the objectives of the Expedited Funds Availability Act and Regulation CC. These commenters stated that if depository institutions are required to make funds from certain check deposits available to customers at the opening of business, funds for the collection of such items should be available for depository institutions' use at the opening of business.

Historically, the Federal Reserve has devoted considerable resources to improving deposit deadlines in order to enable depository institutions to collect more dollars within shorter time frames. These efforts have focused on improving interday funds availability, and there has been little concern about the time of day that funds were made available. The lack of focus on intraday funds availability reflects the facts that (1) no costs have been incurred when depository institutions use intraday credit, (2) the current limits on daylight overdrafts do not tend to be binding for most depository institutions, and (3) the current *ex post* measurement procedures permit collecting institutions to use the net proceeds of check and ACH transactions at the opening of business.

If fees are assessed for daylight overdrafts, attention to intraday availability of funds should increase. The Board believes that, in a pricing environment, users of Federal Reserve payments services will seek not only improved *interday* availability, but also improved *intraday* availability. Thus, even if the Board were to adopt the daylight overdraft measurement procedures proposed in 1989, it is likely that, over time, there would be strong pressures on the Reserve Banks to provide early-in-the-day availability for check and ACH transactions. Further, the private sector would likely develop such alternatives in response to the changing environment.

Some institutions whose payment activity would be constrained by their caps under the proposal stated that they may face a competitive handicap and a loss of earnings. The fundamental issue raised by these commenters is actually a funds availability issue. The Board has developed a new measurement proposal in part to address the issue of intraday funds availability. The Board was guided by the following factors: (1) The use of funds collected through the check and ACH mechanisms is not inherently risky, (2) in a pricing environment, collecting banks will focus on obtaining earlier intraday availability, and there will be strong demand for the Reserve Banks to modify their operations in cost effective ways to provide earlier availability, and (3) some banks may not be able to provide collection services if credits for checks they collect through the Reserve Banks are not available for use during the business day.

Request for Comment on Revised Measurement Scheme

The precise measurement of daylight overdrafts requires a set of rules to determine when during the day debits and credits to a depository institution's account at a Reserve Bank are determined to have occurred. "Posting" for the purpose of measuring daylight overdrafts is not necessarily synonymous with the time at which payments become final nor the time at which the current rights to receive funds accrue, although finality of payment is one of the criteria the Board used to develop the daylight overdraft measurement rules. The actual timing of entering transactions on the Reserve Banks' books varies depending on operational procedures. Fedwire funds transactions are debited or credited as they are processed and are considered to be final payments when the receiver of funds is advised by the Reserve Bank of the credit. Non-wire payment transfers, however, generally are provisional for some period of time and refer to a particular "day" as the measuring unit of availability, without indicating the time during the day at which payment participants are either entitled to the use of the funds received or have been relieved of their payments obligation to the Federal Reserve.

Even if the Federal Reserve were not contemplating pricing Fedwire overdrafts, it would be desirable to clarify the time at which the debtor-creditor relationship between a depository institution and its Reserve Bank changes as the result of the recognition of a payment. Independent of overdraft pricing or cap policies in the United States, technology and the globalization of financial instruments and transactions are increasingly causing money, securities, and capital markets to operate on a 24-hour basis. In such an environment, trading in dollar instruments and dollar payments in one part of the world occurs while U.S. markets and Reserve Banks are closed. In a 24-hour global market, depository institutions in the United States and abroad need to know more precisely the time of day that dollar payments are recognized to have occurred by the Federal Reserve. Even if such global developments were not in progress, a clarification would permit depository institutions to ascertain their intraday rights and responsibilities vis-a-vis Reserve Banks and to evaluate their risks accordingly.

The current transitional system of posting debits and credits for daylight overdraft measurement purposes gives the benefit of doubt to depository institutions. Two drawbacks of this system are that it creates intraday float in the measurement of daylight overdrafts in that depository institutions with net credits can use them before those with net debits are charged, and many depository institutions are unable to monitor their overdraft levels effectively during the banking day. Because the Board's payments system risk reduction program is reaching maturity, the Board believes that the initial transitional posting procedures must be modified.

In developing a proposal to establish the time at which non-wire transactions would be recognized for daylight overdraft measurement purposes, the Board was guided by a desire to eliminate the intraday float created by the current measurement procedures. Thus, the posting of a payment transaction should not result in an increase of one depository institution's credit balance (or a reduction of its measured overdraft) before another depository institution's credit balance is reduced (or its daylight overdraft is increased).

The principle of eliminating aggregate Federal Reserve intraday float is independent of the credit risk arising from the transactions. For example, there may be only minimal Federal Reserve risk resulting from granting early-in-the-day credit for checks collected through the Federal Reserve, even if the Reserve Banks do not charge paying institutions until later on the presentment day. However, by providing early-in-the-day credit to the collecting institution without an offsetting debit to the paying institution, the Federal Reserve would be permitting the collecting institution to use Federal Reserve credit without regard to that depository institution's cap, deductible, or any Reserve Bank fee. Furthermore, if explicit fees for overdrafts are adopted, and if the timing of debits and credits for each transaction were not nearly simultaneous at Reserve Banks, depository institutions would have an incentive to create float by writing checks to each other to create free overdraft capacity. As intraday credit begins to have value, either through pricing or the evolution to 24-hour global

Federal Home Loan Banks, and certain cashier's, teller's, certified, and state and local government checks.

markets, intraday Federal Reserve float becomes a subsidy.

In addition to eliminating intraday float, the new daylight overdraft measurement procedure should allow effective control of intraday overdrafts. If depository institutions are to be charged a fee for incurring a Fedwire overdraft, the procedures for measuring overdrafts should facilitate their ability to control their positions and determine their intraday balances accurately. Measurement procedures under which transactions are posted retroactively after the transaction day is complete do not meet this test.

It is important to acknowledge that any daylight overdraft measurement scheme designed to eliminate intraday float will create "winners" and "losers." (See the discussion below on the effects of the proposal on depository institutions.) The Board requests comment on whether the measurement scheme described below is an equitable balance between the positive and negative effects of the posting rules on depository institutions and their customers.

The Board requests comment on the proposed daylight overdraft measurement scheme described below (and outlined in Appendix 2). The main differences between the new proposal and the 1989 proposal are that, under the new proposal, government and commercial ACH credit transactions would be posted at the opening of business, ACH debit transactions would be posted at 11 a.m. Eastern Time ("ET"), and commercial check transactions and currency and coin deposits would be posted throughout the day, starting at 11 a.m. ET and hourly thereafter.

The features of the proposed measurement scheme are discussed in detail below:

Commercial Check Transactions. Commenters suggested many alternatives for posting non-wire transactions. About one-third of the commenters proposed maintaining the current *ex post* system for posting check transactions, and 85 percent of the commenters wanted to retain the current treatment of ACH debit and credit transactions. More than half of the commenters believed that check transactions should be posted during the morning on the availability or settlement day. The Board's Large-Dollar Payments System Advisory Group [5] suggested posting check transactions between 10:30 and 11:30 a.m. ET to permit depository institutions and their customers to manage their payment activity and to take advantage of a full range of investment opportunities. The Advisory Group believed that payor institutions should not be charged before checks were presented to them, but suggested that electronic presentment might be an acceptable alternative to physical presentment. At the same time, the Advisory Group ackowledged that information on certain checks could not be made available to payor institutions be the posting times it proposed and suggested that charges either be posted retroactively or the small amount of float that would be created by absorbed by the Federal Reserve. Approximately 6 percent of the commenters suggested that credits and debits for check transactions be posted throughout the day, based on the time zones of the Federal Reserve Districts on which the items are drawn.

To gain a better understanding of commenters' concerns regarding investment opportunities, the Board reviewed current investment practices. The Board found that, depending on the type of investment purchased, the investor may be required to render payment from a few minutes after the transaction is completed to the end of the business day. For example, deliveries of U.S. Treasury and agency securities take place throughout the morning and are completed by mid-afternoon. Because sellers initiate the delivery of these securities over Fedwire and the purchasers' account is charged when the securities are delivered, payment could be required minutes after the trade is negotiated.

On the other hand, for money market instruments, such as commercial paper, certificates of deposit ("CDs"), and banker's acceptances, payments are typically expected to be made in available funds by 4 p.m. ET, although most payments are made well before this deadline. In the case of Eurodollar CDs, payments normally must be made by 11 a.m. ET on the day of delivery.

While payment for some instruments must be made early in the day, it is not required for all types of investments. Nevertheless, the Board has developed an alternative measurement scheme that would provide credit for check deposits as early in the day as possible, because assessing fees for daylight overdrafts will create demand for early-in-the-day availability.

Under the proposed measurement scheme, depositing institutions would be credited and payor institutions would be debited intraday, based on the Reserve Banks' ability to present the checks physically to payor institutions and to obtain settlement. Under Subpart A of the Board's Regulation J (12 CFR part 210), depository institutions currently do not have an obligation to settle for checks presented by a Reserve Bank until the close of the banking day on which the checks are presented. The Board has proposed amendments to Regulation J that would allow posting of check debits to payor institutions during the day. (See Docket R–0722, elsewhere in today's **Federal Register**.) Under the proposed amendments to Regulation J, payor institutions would be debited for checks by the end of the clock hour after the hour during which presentment takes place. For example, checks presented at 12:30 p.m. ET would be posted at 2 p.m. ET. This would allow a payor institution at least one hour to inspect incoming cash letters and to notify its Reserve Bank of any discrepancies before the Reserve Bank posted a charge to its account.

Under this approach, Reserve Banks would begin debiting payor institutions and crediting collecting institutions at 11 a.m. ET and continue posting until 6 p.m. ET. (The last presentment to payor institutions in the Pacific Time ("PT") zone is at 2 p.m. PT, 5 p.m. ET.) This range of times was selected both to provide credit for a substantial fraction of collecting institutions' cash letters early enough in the day to allow collecting institutions to participate in financial markets and to reflect the time the Reserve Banks present checks to west coast payor institutions.[6]

Because checks are drawn on a large number of institutions, the Reserve Banks would base the proposed crediting scheme on the average of the actual physical presentment times for each Reserve office's availability zones, such as New York city, Boston RCPC, and Kansas City country. (High-Dollar Group Sort ("HDGS") deposits would be treated as separate availability zones.) These date would be accumulated in a matrix. The columns of the matrix would indicate the posting times, and the rows would consist of the availability zones.

[5] The Advisory Group, made up of private-sector payments system specialists, was formed by the Board in 1985 to assist in the development of the Board's payments system risk reduction program.

[6] The Board considered and rejected a second alternative under which all check credits would be posted at 12 noon ET and check debits posted one hour after presentment but no earlier than 12 noon ET. This alternative would have resulted in intraday float, and thus would have been inconsistent with the Board's objectives.

Thus, the matrix would reflect the fractional availability that would be granted for each availability zone. The appropriate fractions would then be applied to the dollar amount of each collecting institution's deposits to establish the times at which fractional credit would be posted for the purpose of measuring daylight overdrafts.

The following example of a HDGS cash letter illustrates the proposed crediting approach: The group sort has six endpoints, each receiving $10,000,000 in its daily Federal Reserve presentment. The presentment time would be determined for each endpoint based on scheduled courier deliveries. Two institutions in the group sort receive their presentments before 10 a.m. ET, three institutions receive presentments between 10 a.m. ET and 11 a.m. ET, and the remaining institution receives its presentment between 12 noon ET and 1 p.m. ET. Thus, the collecting institution would receive credit for 33.3 percent of its cash letter at 11 a.m. ET ($20,000,00 of the $60,000,000 being presented was presented by 10 a.m. ET); another 50.0 percent of its deposit at 12:00 noon ET; and the remaining 16.7 percent at 2 p.m. ET. Each collecting institution that deposited into this HDGS program would receive the same intraday availability, regardless of the mix of items contained in its cash letter.

In a similar fashion, fractional credits would be determined for regular city, RCPC, and country deposits. Generally, fine sort and group sort cash letters would receive the fractional availability for the availability zone in which the payor institution(s) is (are) located. However, if the presentment schedules to payor institutions contained in these deposit categories differ significantly from the availability zone schedules and the dollar value of these deposits is substantial, different fractions might be developed for some fine sort and group sort deposits.

For mixed and other Fed deposits, collecting institutions would receive interday availability just as they do today. Each Federal Reserve office would calculate intraday fractional availability schedules for its mixed and other Fed deposits. In the case of other Fed deposits, the local Reserve Bank office would develop its fraction based on its ability to receive credit from other Reserve Banks, which in turn would grant availability based on their ability to present checks to payor institutions. The amount of a mixed or an other Fed cash letter that would become available on each day would be credited to the collecting institution during the day in the same manner as credits for other types of check deposits.

It is anticipated that the fractions would be revised semiannually or when major changes in presentment schedules occurred. Once the fractions were developed, they would then be applied through the use of an automated system to the credits due to collecting institutions to calculate the amount of credit the institution would receive at each posting time on the scheduled availability day. To assist depository institutions in managing their intraday reserve/clearing account positions, information concerning the value of check credits posted at each posting time would be reflected in the Reserve Banks' Account Balance Monitoring system ("ABMS") and would be available to depository institutions in real time. Similarly, charges to payor institutions would be reflected in the ABMS at the time the payor institution's account is scheduled to be charged. Further, for those institutions that deposit checks in all Federal Reserve availability zones, the Reserve Banks would provide the fractional availability matrix in automated form.

While this measurement scheme is operationally complex for the Reserve Banks, the Board believes that it satisfies its objectives as well as the concerns raised by commenters. In addition, it represents a meaningful step toward more timely account balance information. Under this approach, nearly 50 percent of the value of all check deposits at the Federal Reserve would be made available to collecting institutions by 12 noon ET and about 78 percent would be available by 1 p.m. ET. Given the significant value of check deposits that would be available for use early in the day, it appears that the proposal would address, for the most part, the settlement needs of investors. At the same time, because funds would be made available using fractional, intraday availability schedules, cash managers may need new information systems that reflect intraday availability schedules to avoid incurring daylight overdrafts, which could increase their operating costs. Because, on average, credits for check deposits would not be posted until payor institutions had been charged for check presentments, this mesurement procedure would not create intraday float.

The Board estimates that, if this proposal is adopted, a large collecting institution could be subject to 150 to 200 different sets of fractions that would be used to provide intraday availability. The Board requests comments on whether there are steps that could be taken to reduce the complexity of its proposal and also requests comment on the following questions:

1. Under the proposal, sets of fractions would be developed for each Reserve Bank availability zone, i.e., city, RCPC, and country. In addition, each Reserve office would develop sets of fractions for its mixed and other Fed deposits. Could the number of sets of fractions be reduced by increasing the territory covered by each fraction, such as including city and RCPC endpoints in the same set of fractions?

2. Under the proposal, credit for a cash letter, e.g., an other Fed cash letter, could be passed at eight different times during the day. Would it be preferable to reduce the number of times during the day at which credit would be made available? For example, the Reserve Banks could limit the number of crediting times by only crediting collecting institutions if at least 5 or 10 percent of the value of a cash letter could be credited at the posting time.

3. In addition to providing information through the ABMS and providing the fractional availability matrix to depository institutions, what steps could the Reserve Banks implement to reduce the potential operational burden faced by collecting institutions in determining the times at which check credits would be posted?

Next-day availability items. Under Regulation CC, depository institutions are required to make funds available to their customers for certain check deposits at the opening of business on the business day following the banking day of deposit. Currently, the Reserve Banks provide same-day credit for deposits of separately sorted Treasury checks, Postal money orders, and checks drawn on Federal Reserve Banks that are received by late afternoon deposit deadlines, typically 4 p.m. local time. Under the June 1989 proposal, depository institutions would receive credit for these checks after the close of Fedwire on the day of deposit and the funds would be available for withdrawal at the opening of business on the following business day. The Reserve Banks' current deposit deadlines, however, can typically be met only by institutions located close to Federal Reserve offices. Most other institutions must rely on couriers to deliver their check deposits, and couriers are generally scheduled to arrive at Federal Reserve offices during the night in time to meet commercial check deposit deadlines. Thus, these institutions would not have received credit for "next day" availability items until after the close of Fedwire the day

following the business day of receipt by the institution.

Although most customers withdraw the proceeds of such deposits by check, which would not affect an institution's intraday reserve/clearing account balance until the check has cleared, customers depositing large-value checks typically use the funds for investment or other payments, withdrawing the proceeds by wire. In addition, depository institutions that receive large-value deposits frequenly invest any excess funds overnight.

Under the Board's proposal, the Reserve Banks would establish a new deposit deadline for separately sorted deposits of Treasury checks, Postal money orders, and Federal Reserve Bank checks. This deposit deadline would be set at a time that corresponds to the commercial check deposit deadlines that are used by the majority of depositors in each check clearing zone. Treasury checks, Postal money orders, and Federal Reserve Bank checks received by these new deposit deadlines would be credited to depositors' accounts at the opening of business on the morning following deposit. For example, if the deposit deadline were 12:01 a.m., institutions depositing such checks would receive credit for them at the opening of business that day. The Reserve Banks would continue to offer their late afternoon deposit deadlines for same-day availability and would credit depository institutions' accounts one hour after the deposit deadline.[7]

The Reserve Banks are not able to identify and segregate cashier's, teller's and certified checks nor state and local government checks from the other checks drawn on the payor institutions. Moreover, even if the Reserve Banks were able to segregate these checks, as they can checks drawn on Federal Home Loan Banks, the debit could not necessarily be effected at the opening of business because the checks generally would not have been presented to the payor institution by that time. The proposal to post credits for commercial check deposits on the availability day using an intraday availability schedule should provide early-in-the-day availability for a large number of these items and, thus, should alleviate some concerns raised by commenters. It should also be noted that Treasury checks, Postal money orders, and checks drawn on Federal Reserve Banks that are included in deposits with commercial checks would typically be included in the credit posted at the first check posting time, that is, at 11 a.m. ET.

ACH Transactions. More than 90 percent of the commenters opposed the Board's proposal to post commercial ACH credit and debit transactions after the close of Fedwire. Commenters were particularly concerned about the different treatment that would be accorded commercial ACH credit transactions and Treasury ACH credit transactions, which would be posted at the opening of business. Commenters also indicated that the proposal would have a detrimental effect on the growth and acceptance of the ACH mechanism. Further, several commenters noted that the proposal contradicted the Federal Reserve's efforts to improve the ACH mechanism by encouraging the conversion to an all-electronic network. These commenters reasoned that, if funds would not be available for use during the settlement day, there would be little incentive for institutions to incur the expense necessary to install electronic connections in order to obtain payment data early on the settlement day. Over 85 percent of the commenters suggested that all ACH credit and debit transactions be posted at the opening of business on the settlement day.

Because information concerning ACH transactions is available to all receiving institutions no later than 7 a.m. ET, it is possible to post ACH transactions early on the settlement day without creating intraday float. Further, there are no legal obstacles that would prevent the Reserve Banks from charging originators of credit transactions or receivers of debit transactions during the settlement day. Moreover, as in the case of the check collection mechanism, the risks faced by users of the ACH mechanism are interday risks that cannot effectively be controlled by delaying depository institutions' use of funds on the settlement day.[8]

In developing the proposal that was issued for public comment in 1989, the Board was concerned that charging originators of ACH credit transactions at the opening of business might discourage use of the ACH, especially if fees were assessed for daylight overdrafts. Based on the responses received on the proposal, however, it appears that continued use of the ACH for credit transactions, such as payroll and pension payments, would be affected more by funds availability issues than by the potential overdrafts that might be created by charging originators early on the settlement day. Based on survey data for the four-week period ending August 23, 1989, modifying the Board's original proposal to post all ACH credit transactions (both debits to originating institutions and credits to receiving institutions) at the opening of business would result in a slight reduction in the total number of institutions incurring daylight overdrafts.

In the case of ACH debit transactions, cash concentration debits account for the majority of dollars collected. For the most part, cash concentration transactions are funded through check deposits that become available on the same day that the ACH debit transactions settle. By posting ACH debit transactions at 11 a.m. ET, funds would be available on a timely basis for investments and other payment obligations.

Thus, the Board proposes that both Treasury and commercial ACH credit transactions be posted at the opening of business on the settlement day. The Board also proposes that ACH debit transactions (credits to originating institutions and debits to receiving institutions) should be posted at the first check posting time, i.e., 11 a.m. ET. ACH return items and check truncation items are processed during the day for same-day availability and are normally delivered to receiving institutions in the late afternoon at approximately 4 p.m. ET. The Board proposes that these transactions be posted at 5 p.m. ET.

Net settlement transactions. The Reserve Banks provide net settlement services to about 200 private clearing arrangements.[9] The majority of net settlement arrangements enable members of local check clearinghouses to settle the checks exchanged by members through their reserve or clearing accounts. Net settlement services are also provided to members of privately operated ACH networks, automated teller machine and point-of-sale networks, and credit card processing arrangements. In addition, the Federal Reserve Bank of New York

[7] Paid savings bonds deposited under the EZ-Clear program are processed in much the same way as Treasury checks. The Board, therefore, proposes that separately sorted deposits of paid savings bonds, deposited under the EZ-Clear program, should be treated in the same way that the Board proposes to treat Treasury checks.

[8] In the case of ACH credit transactions, the Reserve Banks are exposed to the risk that the originating depository institution will not be able to fund transactions on the settlement day that it originated one or two days before that day. The Reserve Banks have the right, however, to reverse credits granted to receiving institutions if originating institutions do not fund their payments.

In the case of ACH debit transactions, the Reserve Banks are exposed to the risk created by return items, which is comparable to the return items risk faced in the check collection service.

[9] This discussion does not include clearing arrangements that use Fedwire to complete settlement, such as the Clearing House Interbank Payments System and Participants Trust Company.

provides net settlement service to members of the New York Clearing House Association that have agreed to exchange maturing commercial paper.

Forty-six commenters discussed issues related to the time at which net settlement entries should be posted for purposes of measuring daylight overdrafts. The majority of commenters indicated that net settlement entries for check and commercial ACH net settlement arrangements should be posted at the same time that the Reserve Banks post entries for the check and ACH transactions they process. Several commenters suggested that net settlement entries be posted at a time mutually agreed upon by the Federal Reserve and members of the clearing arrangement.

Nine commenters discussed the proposal to post net settlement entries for commercial paper transactions after the close of Fedwire. These commenters were particularly concerned about the impact the proposal would have on the commercial paper market. At least one of these commenters questioned whether the proposed Depository Trust Company ("DTC") book-entry commercial paper clearing and settlement system would significantly reduce daylight overdrafts created by commercial paper activity. This commenter noted that only the highest grades of commercial paper would be eligible for DTC's system. Some commenters encouraged the Board to post net credit entries at the opening of business and net debit entries at the close of business, while another group of commenters proposed that both net credit and net debit entries be posted between 10:30 a.m. and 12 noon ET.

The Board agrees with the commenters that net settlement entries for check and ACH clearing arrangements should, to the extent possible, be posted at a time that would permit the clearing group to provide effective services. To post offsetting net settlement entries at different times during the day, as some commenters suggested, would be inconsistent with the fundamental characteristics of the service and would create intraday float. The Board believes that the most equitable approach to addressing the issues associated with the time at which net settlement entries should be posted, for purposes of measuring daylight overdrafts, would be to permit the members of each private-sector clearing arrangement to determine the time at which the net settlement entries for its clearing arrangement would be posted. The implement such a proposal, the Reserve Banks would agree to accept multiple settlement statements and would post net settlement entries one hour after the data were received from the agent for the clearing arrangement.

Discount window loans. In the Board's June 1989 proposal, both credit for extensions of discount window loans and debits for their repayment would be posted after the close of Fedwire. The Board believes that, in a pricing environment, the discount rate should be made a true 24-hour rate by matching the 24-hour maturity of a discount window loan with that of a 24-hour extension of credit in the federal funds market. In response to the introduction of daylight overdraft pricing by the Federal Reserve, participants in the federal funds market presumably would begin to price 24-hour credit extensions differently from overnight extensions. In this event, the Board believes that the 24-hour federal funds rate would be most relevant to the determination of term funds and other money market rates and, hence, of most interest in the implementation of monetary policy. The anchor to the federal funds rate stems in part from the interaction of the System's intended level of adjustment plus seasonal borrowing with the willingness of institutions to tap the discount window at the prevailing discount rate. Hence, it would seem most appropriate to link the level of borrowing to a 24-hour federal funds rate by having the maturities of discount window loans be 24 hours or multiples thereof.

Commenters on the proposal suggested that some discount window borrowers may need funds before the close of business, but may not have access to market sources of intraday credit. The Board proposes that discount window loans and repayments normally be posted after the close of Fedwire. The Board recognizes, however, that there occasionally may be circumstances that would justify permitting a depository institution to use funds advanced through the discount window during the day on which the loan is granted. Therefore, the Board proposes that, on an exception basis, if a depository institution does not have ready access to money markets and has to make unanticipated payments during the day, the Reserve Bank may post the credit for the discount window loan before the close of business and post the repayment 24 hours later.

Treasury investments. Two commenters indicated that the proposal to post Treasury investments at 2 p.m. local time would limit depositories' investment options and may cause some institutions to withdraw from the program. Treasury direct investments are processed in two ways: In some cases, depositories are advised of the investment to be placed by the Treasury on the day preceding the investment date, and, in other cases, depositories are not notified until the day the investment is made. The Board proposes that Treasury investments that are known in advance be posted at the opening of business on the investment date, and that same-day Treasury investments be posted at 2 p.m. local time in order to provide the Reserve Banks sufficient time to process the transactions.

Currency and Coin Transactions. One commenter indicated that the proposal to post currency and coin deposits after the close of Fedwire would cause the commenter's institution to incur an overdraft if it continued to invest funds received for cash deposits as it does today. Essentially, the issue raised by this commenter is similar to the funds availability issues that were raised by commenters concerning check and ACH transactions.

Unlike the intraday posting of check transactions, the intraday posting of currency and coin transactions could be accomplished easily without creating float. Further, as in the case of check and ACH transactions, the risk faced by the Reserve Banks in granting credit for currency and coin deposits is not a risk that can be controlled through an intraday posting system. Rather, the risk is associated with potential differences in deposit amounts that can be discovered only when deposits are verified by means of piece counts, which are generally performed several days after deposits are received.

There are some differences between currency and coin deposits and check and ACH transactions. The dollar value of currency and coin deposits is relatively smal compared with the dollar value of check and ACH transaction. As a result, the time at which currency and coin transactions are posted is less important to many depository institutions than the time at which checks and ACH transactions are posted. Depository institutions do not generally deposit currency and coin daily, but rather deposits are made approximately once a week. As a result, posting currency and coin deposits during the business day would not have a significant effect on average overdrafts.

While the benefits of posting currency and coin deposits during the business day on the day of deposit does not appear to be significant in absolute terms, several hundred institutions' overdrafts could be measurably reduced

if currency and coin deposits were posted during the business day. Additionally, granting credit for currency and coin deposits during the business day would substantially address the concerns of the commenters, especially smaller depository institutions, about the equity of Federal Reserve policies. The Board, therefore, proposes to post credits for currency and coin deposits on a flow basis on the day of deposit. Credits would be posted beginning at 11 a.m. ET and hourly thereafter until all credits had been posted.

Because the time at which currency and coin shipments reach depository institutions cannot be easily predicted, the Board proposes that debits for currency and coin shipments be posted after the close of Fedwire on the day the shipment is dispatched.

Letters of Credit. The Reserve Banks act as fiscal agents for government agencies in processing draw-downs for certain government grants. The majority of this activity is processed over Fedwire and, as a result, credits are posted to recipients' accounts when the funds transfers are processed. Some government grants, however, are processed manually by the Reserve Banks.

In many cases, the payments associated with these transactions are very large amounts, which would typically be invested on the day of receipt. Depository institutions, therefore, expect to have access to these funds on the day of receipt. From the Reserve Banks' perspective, there is no credit risk associated with handling these transactions because government agencies are obligated to fund their commitments and credits to recipients are considered final. Because payments associated with government grants are considered final payments, the Board proposes that manual letters of credit be posted to depository institutions' accounts during the business day. Under the proposal, all letters of credit that have been processed by 2 p.m. ET would be posted by that time and all transactions processed after that time would be posted by 5 p.m. ET

State and local government series—Treasury securities ("SLGs"). SLGs were not explicitly addressed in the Board's 1989 proposal. At least one commenter, however, questioned whether transactions in SLGs would be posted at the same times as book-entry securities transactions.

SLGs are nonmarketable securities issued by the Treasury Department to state and local governments. All records of ownership are maintained on the books of the Treasury Department. SLGs may not be transferred as a result of sale or exchange nor may they be assigned or pledged.

While SLGs are not issued frequently, the dollar value of new issues tends to be quite large. Payments for new issues, therefore, have the potential to create significant overdrafts in certain depository institutions' accounts. Under Treasury Department procedures, purchasers must pay for new issues of SLGs either by means of a reserve account debit or a federal funds check by the close of business on the issue day.

Because the securities cannot be pledged, the collateralization policy that was implemented on January 10, 1991, to reduce the risk the Reserve Banks face in handling book-entry securities activity could not be applied to SLGs. On the other hand, because SLGs cannot be sold or transferred, they do not present the same risk to Reserve Banks as do marketable government securities. Presumably, if payment for a new issue of SLGs had not been received by the close of business on the issue day, the Treasury could reverse the subscription. In light of the limited risk faced by the Reserve Banks and the Treasury Department, the Board proposes to post debits to the accounts of depository institutions for new issues of SLGs after the close of Fedwire on the issue date.

Interest and principal payments for SLGs are made via the ACH, reserve account credit, and Treasury check. In the case of reserve account credits, the Treasury informs the Reserve Banks of payments to be made at least one business day prior to the payment date. Because payments are known in advance, the Board proposes that principal and interest payments for SLGs be posted to depository institutions' accounts at the opening of business on the interest payment and redemption dates. Payments that are made via the ACH would be posted at the same time that other ACH credit transactions are posted.

Measurement intervals. Currently, the *ex post* monitoring system calculates depository institutions' daylight overdrafts based on shapshots of their balances at 15 minute intervals from 8:00 a.m. until 7:00 p.m. ET. The Board is proposing modifications to the measurement intervals for two reasons: (1) The use of 15 minute snapshots of depository institutions' intraday balances does not accurately reflect many institutions' actual use of Federal Reserve credit, and (2) the time over which daylight overdrafts are measured is not consistent with Fedwire operating hours.

If it is determined to assess fees for daylight overdrafts, the accuracy of daylight overdraft calculations will take on added importance. The most accurate method of calculating daylight overdrafts would be to capture depository institutions' balances after every transaction that affects their balances. Because of the high volumes of transactions initiated and received by many institutions, this approach would be very costly to implement. Shortening the interval over which daylight overdrafts are measured would also improve the accuracy of the calculations. Based on an analysis of daylight overdraft patterns in several Federal Reserve districts, the Board proposes that depository insitutions' daylight overdrafts be monitored based on snapshots of depository institutions' account balances at one minute intervals.

Because the current *ex post* monitoring system begins measuring daylight overdrafts 30 minutes before Fedwire opens and continues measuring daylight overdrafts for 30 minutes after Fedwire closes, it is possible for the system to overstate or understate a depository institution's daily average overdraft because negative or positive balances during these periods would not normally change. The Board believes that this practice is inequitable. On the other hand, Fedwire hours are extended beyond the official closing time periodically, Simulations of depository institutions' Fedwire activity during the extensions indicate that posting all Fedwire transfers sent and received during the extension at 6:30 p.m. ET would not significantly change depository institutions' average daylight overdrafts. The Board proposes that daylight overdrafts be measured over the official Fedwire operating hours, which are now 8:30 a.m. until 6:30 p.m. ET.

Under the Board's June 1989 pricing proposal, fees would be applied to each institution's daily average daylight overdraft, after reducing that average by a deductible. Based on the preceding discussion, if the Board determines to apply fees to daily average daylight overdrafts, the Board proposes that daily average daylight overdrafts be calculated by totalling each depository institution's negative account balances at the end of each minute and dividing the sum of these negative balances by the number of minutes in the official Fedwire operating day. Under this approach, only negative balances would be included in the calculation; all positive balances would be set to zero

Effect of Proposal on Depository Institutions. Any modification to the current *ex post* monitoring system that eliminates intraday float will increase the level of daylight overdrafts and, most likely, the number of depository institutions incurring overdrafts, unless those institutions modify their behavior. Based on survey data for the four weeks ending August 23, 1989, under the current measurement procedures,[10] approximately 4,435 depository institutions would have incurred a daylight overdraft on at least one day, and daily average total Fedwire funds and book-entry overdrafts would have amounted to $119.2 billion. Under the June 1989 proposal, about 5,627 institutions would have incurred a daylight overdraft on at least one day, an increase of nearly 1,200 institutions, and total Fedwire daylight overdraft would have amounted to $144.7 billion, an increase of $25.5 billion. The Board's 1989 proposal tended to increase overdrafts at depository institutions that are net collecting institutions because all non-wire credits would be posted after the close of Fedwire. Thus, if these institutions did not change their behavior, their overdrafts would have increased because they would have had to use Federal Reserve credit to continue to fund their payment activity.

The Board's new proposal for measuring daylight overdrafts would provide intraday credit to collecting institutions, but it would also charge payor institutions during the business day. Thus, a different group of institutions, i.e., net payor institutions, would be most affected by this proposal. In the aggregate, 6,565 institutions would have incurred a daylight overdraft on at least one day during the survey period, an increase of more than 2,000 institutions when compared with the current measurement procedures.[11] In addition, daily average total Fedwire overdrafts would have amounted to about $152.0 billion, an increase of about $33 billion over the current measurement procedures.[12]

A considerably larger number of institutions would be subject to the Board's risk reduction policies under the Board's new proposal than are now. About 5,000 [13] of these institutions, however, would incur relatively small overdrafts, would quality for the new exempt-from-filing status (see 55 FR 22092, May 31, 1990), and, as a result of the deductible, would be exempt from pricing under the 1989 pricing proposal. The daily average total overdrafts incurred by these institutions amount to only $2.0 billion, averaging about $400,000 per institution. Moreover, the Board believes that these simulated results overstate the level of daylight overdrafts that would result from implementation of this proposal. Further, institutions could reduce the potential overdrafts that they might incur under the proposal by delaying some non-time critical funds transfers until check credits are posted and by arranging to fund check presentments before Federal Reserve charges are posted. In the case of funding check presentments, the Large-Dollar Payments System Advisory Group has stated that it would be easier to require customers to fund check presentments during the day than to prevent customers from using funds from check and ACH transactions on the availability/settlement day. The Board, therefore, believes that many of these institutions could adjust their practices to reduce or eliminate the majority of overdrafts projected in the simulations.

Clearly, the institutions most negatively affected by the proposal are the 447 that would exceed 100 percent of their capacity. While this number is greater than the number of institutions that would have exceeded their caps under the June 1989 proposal, the number is overstated because (1) 111 institutions that currently have zero caps are eligible for either a *de minimis* or a positive cap, (2) 129 institutions that currently have positive caps would be eligible for higher caps, and (3) many institutions would not be charged for checks until later times than were used in performing the simulation upon which this analysis is based.

The daily average total overdrafts of all institutions that exceeded their caps amounted to about $74 billion or 48 percent of daily average total overdrafts during the survey period. Of this amount about $55.8 billion reflect overdrafts in excess of cap. The majority of the excess overdrafts, $49.2 billion, were book-entry related overdrafts incurred by securities clearing banks that must be collateralized and are exempt from cap constraints. Another $1.0 billion of the overdrafts were due to book-entry activity and could also be collateralized and be exempted from cap constraints. The remaining $5.6 billion in excess overdrafts appear to be attributable to a number of factors. The majority of these excess overdrafts appear to be caused by commercial paper net settlement entries. In performing the simulations, commercial paper net settlement entries were posted at 11 a.m. ET. Thus, institutions in net credit positions received their credits later than they currently do, and institutions in net debit positions received their net debits earlier. The Depository Trust Company's clearing and settlement [14] system should reduce some of these overdrafts because new issues of commercial paper are netted against redemptions, reducing, to some extent, the aggregate amount of the current payment flows associated with commercial paper activity. Additionally, institutions in net credit positions could delay payments that are funded by the proceeds of maturing commercial paper. Alternatively, the New York Clearing House participants could agree to a different posting time that might result in fewer overdrafts. The remaining excess overdrafts are spread among a relatively large number of institutions and appear to be due largely to the somewhat later posting time for checks credits than would be the case under the current *ex post* monitoring procedures as well as posting check debits during the business day. As noted previously, the Board believes that depository institutions could modify the timing of certain funds transfers and could require their customers to fund check presentments earlier in the day than they do now.

In summary, implementation of this proposal would require depository institutions to make adjustments, which would be necessary under any proposal that eliminates the intraday float that is created by the current measurement scheme. The Board believes that the book-entry collateralization policy that was implemented on January 10, 1991, will ease the adjustment. Under the policy, any depository institution may choose to collateralize its book-entry

[10] The current measurement procedures were adjusted to reflect the changes adopted by the Board to standardize the way that the Reserve Banks post book-entry securities transactions.

[11] The increase in the number of institutions incurring daylight overdrafts under the new proposal compared with the June 1989 proposal is partially due to the fact that more institutions receive check presentments from the Reserve Banks than use the Federal Reserve's check collection services directly.

[12] The Board believes that the increase in overdraft levels and the number of institutions incurring overdrafts under the new proposal is overstated due to limitations in the simulation that allowed only a single time for posting check debits. The Board believes a more accurate range for overdrafts under the new measurement proposal is $142 to $152 billion and the number of institutions incurring an overdraft should be between 6,000 and 6,500.

[13] Of the 5,133 institutions that would be exempt from filing, over 100 are considered problem institutions that would not be permitted to incur daylight overdrafts.

[14] The Depository Trust Company began phasing in its book-entry commercial paper system in early October 1990.

overdrafts and will be able to continue to invest in government securities on their own behalf or on behalf of their customers without experiencing cap constraints. In the case of other payments funded by check deposits and non-wire transactions, it appears that institutions could delay many payments until funds are made available without significantly affecting payment flows. Further, because cash managers generally have fairly good information about check presentments early in the day, depository institutions could require their customers to fund check presentments before the time that the Federal Reserve charge would posted. Finally, it can be argued that it is more equitable for payors to bear the burden associated with the elimination of intraday float because they are the parties that are responsible for making payments. If check payments were converted to electronic payments, payors would be required to have cover for payments when they were made or to pay any potential charges for extensions of intraday credit.

The Board believes that depository institutions could adjust their cash management operations in order to control the use of Federal Reserve credit. The Board requests comment on the costs depository institutions would incur on (1) A one-time basis to modify their operating systems and procedures and (2) an ongoing basis to handle daily payment activity.

Competitive Impact Analysis:

The Board recently formalized its procedures for assessing the competitive impact of changes that have a substantial effect on payments system participants.[15] Under these procedures, the Board will assess whether the proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences.

The Board believes that portions of the proposed daylight overdraft measurement scheme, specifically the posting scheme for check and ACH transactions, may have a direct and material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks' payments services. In the case of the Reserve Banks' check collection service, the proposed check posting procedure (and accompanying amendment to Regulation J) will enable Reserve Banks to obtain settlement in immediately available funds for checks presented to paying banks as early as one hour after presentment. In turn, Reserve Banks would be able to give credit for checks they collect earlier in the day without incurring intraday float. Private-sector collecting banks ordinarily cannot obtain settlement within a comparable time or in a comparable form without entering into an agreement with the paying bank or paying presentment fees or both.

In the case of the Federal Reserve's ACH service, the availability of funds to receivers of ACH credit transactions would be slightly more favorable than the terms of the national ACH net settlement service offered by the Reserve Banks to participants in private-sector ACH clearing arrangements. On the other hand, institutions originating ACH credit transactions through the Reserve Banks would be charged earlier that they would be under the terms of the private-sector national ACH net settlement service.

The Board believes that the proposed posting procedures should be considered within the context of the entire payments system risk reduction program and the Board's anticipated proposal regarding same-day settlement. The anticipated same-day settlement proposal would grant private collecting banks rights to receive settlement from paying banks that would be closer to the rights the Reserve Banks have under Regulation J and would mitigate the adverse competitive effects of the proposed check posting procedures. The Board believes that the advantages of the posting procedures in facilitating any future daylight overdraft pricing program and in enabling Reserve Banks to accelerate availability of check deposits outweigh the adverse effects of those procedures.

Furthermore, many of the adverse effects on the Federal Reserve's competitors in the check collection system would be mitigated by the benefits of the proposed overdraft measurement scheme. For example, under the proposed procedures, depository institutions participating in private clearinghouses would be able to establish the time at which net settlement entries for the checks exchanged among participants would be posted to reserve and clearing accounts. Thus, the participants would be able to control the time at which credits and debits would be posted to their accounts. Correspondent banks that clear checks on behalf of respondents would be able to make payments to their respondents for any checks collected through the Federal Reserve on the settlement day without incurring daylight overdrafts, provided that the timing of payments to respondents followed the receipt of credit from the Federal Reserve.

The Board's goal of achieving accurate measurement of daylight overdrafts without incurring intraday float could be met by posting credits and debits for check and commercial ACH transactions after the close of business, as originally proposed in June 1989. The June 1989 proposal for overdraft measurement would not have caused the adverse competitive effects described above. Many of the commenters to the June 1989 proposal, however, including the Large-Dollar Payments System Advisory Group, requested the check and ACH credits and debits be posted earlier in the day to allow intraday use of funds by collecting banks. The Board requests comment, in light of the other modifications to the payments system risk reduction program proposed today and the anticipated same-day settlement proposal, on whether the ability to use check and ACH credits during the day outweighs the negative competitive effects of being charged for check and ACH transactions intraday under the proposed posting scheme.

By order of the Board of Governors of the Federal Reserve System, January 22, 1991.

William W. Wiles,

Secretary of the Board.

Appendix 1—Procedures for Measuring Fedwire Daylight Overdrafts (1989 Proposal and Current)

1989 Proposal

Opening Balance (Previous day's closing balance).

Post at Opening of Business

+ U.S. Treasury and Government Agency Book-Entry Interest and Redemption Payments.

− U.S. Treasury Book-Entry Original Issues.

+ U.S. Treasury ACH Credit Transactions.

Post Throughout Business Day.

+/− Fedwire Funds Transfers.

+/− Fedwire Book-Entry Securities Transfers.

Post at 2:00 p.m. (local time).

+/− Treasury Investments (Direct and Special Direct).

Post after close of Fedwire.

[15] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System," which was revised in March 1990. (55 FR 11648, March 29, 1990).

+/− All Other Non-Wire Transactions, Including Commercial ACH and Check Transactions
Equals
Closing Balance.

Current

Opening balance (Previous day's closing balance).
Post at Opening of Business
+/− U.S. Treasury and Commercial ACH Transactions.
+ Net credits (if any) from All Other (Non-Wire) Transactions
Post Throughout Business Day
+/− Fedwire Funds Transfer.
+/− Fedwire Book-Entry Securities Transfers.
Post after close of Fedwire
− Net Debits (if any) from All Other (Non-Wire) Transactions
Equals
Closing Balance.

Appendix 2—Modified Proposal For Measuring Daylight Overdrafts

Opening Balance (Previous Day's Closing Balance).
Post at Opening of Business.
+/− Government and Commercial ACH Credit Transactions.
+ Advance Notice Treasury Investments.
+ Treasury State and Local Government Series (SLGs) Interest and Redemption Payments.
+ Treasury Checks, Postal Money Orders, Federal Reserve Bank Checks, and EZ-Clear Savings Bond Redemptions Deposited the Previous Night.
Post Throughout Business Day
+/− Fedwire Funds Transfers.
+/− Fedwire Book-Entry Securities Transfers.
+/− Net Settlement Entries.[1]
Post at 9:15 a.m. Eastern Time
− Original Issues of Treasury Securities.[2]
+ U.S. Treasury, Government Agency Interest and Redemption Payments.
Post at 11 a.m. Eastern Time
+/− ACH Debit Transactions.
Post at 11 a.m. Eastern Time and Hourly Thereafter:
+/− Commercial Check Transactions, Including Return Items
+ Currency and Coin Deposits.
Post at 2 p.m. Eastern Time
+ Processed Manual Letters of Credit.[3]
Post at 2 p.m. Local Time
+ Same-Day Treasury Investments.
Post One Hour After Deposit Deadline 4–5 p.m. Local Time)
+ Same-Day Treasury Checks, Postal Money Orders, Federal Reserve Bank Checks, and EZ-Clear Savings Bond Redemptions.
Post at 5 p.m. Eastern Time
+ Processed Manual Letters of Credit.[4]
+/− Same-Day ACH Transactions.[5]
Post After the Close of Fedwire
+/− All Other Non-Wire Transactions (such as Noncash Items, Government Coupons, TT&L Calls, Subscription for SLGs, Discount Window Loans and Repayments,[6] and Currency and Coin Shipments).
Equals.
Closing Balance.

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[1] Net settlement entries would be posted one hour after settlement date were received by the Reserve Bank.

[2] Original issues of Government agency securities are delivered as book-entry securities transfers and would be posted when the securities are delivered to the purchasing institutions.

[3] Letters of credit transactions are draw-downs of government grants.

[4] Letters of credit transactions are draw-downs of government grants.

[5] Same-day ACH Transactions include ACH return items and check truncation items.

[6] In unusual circumstances, if a depository institution does not have ready access to money markets and has demonstrated a need to make unanticipated payments, Reserve Banks may post the credit for a discount window loan when it is granted, provided it is repaid 24 hours later.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90D–0183]

Regulatory Action Regarding Approved New Drugs and Antibiotic Drug Products Subjected to Additional Processing or Other Manipulations; Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide 7132c.06 entitled "Regulatory Action Regarding Approved New Drugs and Antibiotic Drug Products Subjected to Additional Processing or Other Manipulations"—January 18, 1991. This compliance policy guide describes the circumstances that may result in FDA regulatory action regarding the marketing of approved new drug and antibiotic drug products that have been subject to additional processing or other manipulations not covered by an approved application. FDA developed the compliance policy guide in response to the significant increase in unapproved manipulations, such as repacking, that may affect the integrity of drug products.

ADDRESSES: Submit written requests for single copies of FDA Compliance Policy Guide 7132c.06 to the Legislative, Professional, and Consumer Affairs Branch (HFD–365), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Requests should be identified with the docket number found in brackets in the heading of this document. Send a self-addressed adhesive label to assist that office in processing your requests. Compliance Policy Guide 7132c.06 is available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, room 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Donald T. Salt, Center for Drug Evaluation and Research (HFD–313), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: Under FDA's regulations governing the premarket approval process for new drugs and antibiotic drugs pursuant to section 505 and 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355 and 357), a marketing application submitted for FDA review and approval must contain, among other required information, a description of the manufacturing and packaging procedures and in-process controls for the drug product. This requirement for a description of the various aspects of the manufacturing process is important in determining the applicant's ability to produce a drug product of acceptable quality and to ensure that the drug product is safe and effective. Further, FDA is obligated to see that approved drugs are manufactured under circumstances that ensure that the marketed drug does not differ from the terms of the approval which reflect the agency's conclusions about safety and effectiveness. To accomplish its regulatory responsibilities, FDA may initiate regulatory actions to ensure that the safety, effectiveness, or quality of the final product will not be affected by significant product manipulation that is not defined in the original approved application.

One significant drug product manipulation, the repacking of approved new drug products into various package sizes and dosage forms outside the practice of pharmacy, has now become a common practice in the pharmaceutical industry. FDA is concerned that such repacking of

approved new drug or antibiotic drug products, as well as other significant drug product manipulations, may compromise their safety or efficacy.

To protect the public health and to carry out its obligations under sections 505 and 507 of the act, FDA has prepared Compliance Policy Guide 7132c.06 entitled "Regulatory Action Regarding Approved New Drug and Antibiotic Drug Products Subjected to Additional Processing or Other Manipulations." This policy guide describes the circumstances that may initiate FDA regulatory action to preclude the marketing of approved new drug and antibiotic drug products that have been subject to additional unapproved processing or other manipulations.

This compliance policy guide does not limit the agency's enforcement discretion with regard to the initiation of regulatory action after an evaluation of all relevant facts.

In light of one Federal court decision that sanctioned repacking of solid oral dosage forms approved under section 505 of the act, the policy guide also describes circumstances in which the agency does not intend to initiate regulatory action with regard to the repacking of solid oral dosage forms of drug products approved under section 505 of the act and antibiotic drug products approved under section 507 of the act.

The statements made herein are not intended to create or confer any rights, privileges, or benefits on or for any private person, but are intended merely for internal guidance.

This notice is issued under 21 CFR 10.85.

Dated: January 18, 1991.

Gary J. Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 91-1901 Filed 1-25-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90E-0417]

Determination of Regulatory Review Period for Purposes of Patent Extension; Kelcogel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Kelcogel and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims Kelcogel.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: I. David Wolfson, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to a regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For food and color additives:

(1) The testing phase begins on the date a major health or environmental effects test is begun and ends on the date a petition relying on the test and requesting the issuance of a regulation for use of the additive under section 409 or 706 of the Federal Food, Drug, and Cosmetic Act (the act) is initially submitted to FDA. An "environmental effects" test may be any test which: (a) Is reasonably related to the evaluation of the product's health effects, or both; (b) produces data necessary for marketing approval; and (c) is conducted over a period of not less than 6 months duration, excluding time required to analyze or evaluate test results.

(2) The approval phase begins on the date a petition requesting the issuance of a regulation for use of the additive under section 409 or 706 of the act is initially submitted to FDA and ends upon whichever of the following occurs last: (a) The regulation for the additive becomes final; or (b) objections filed against the regulation that result in a stay of effectiveness are resolved and commercial marketing is permitted; or (c) proceedings resulting from objections to the regulation, after commercial marketing has been permitted and later stayed pending resolution of the proceedings, are finally resolved and commercial marketing is permitted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a color or food additive will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(2)(B).

FDA recently issued a regulation listing Kelcogel (gellan gum) as a food additive. Kelcogel is used as a stabilizer and thickener in frostings, glazes, icings, jams, and jellies.

Subsequent to this listing, the Patent and Trademark Office received patent term restoration applications for Kelcogel (U.S. Patent Number 4,326,052) from Merck and Co., Inc., and requested FDA's assistance in determining the product's eligibility for patent term extension. In a letter dated December 11, 1990, FDA advised the Patent and Trademark Office that the product had undergone a regulatory review period and that the food additive's active ingredient, gellan gum, represented the first commercial marketing or use of this food additive under section 409 of the act. This **Federal Register** notice now represents FDA's determination of the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Kelcogel is 2,344 days. Of this time, 549 days occurred during the testing phase of the regulatory review period, while 1,795 days occurred during the approval phase. These periods were derived from the following dates:

1. *The date a major health or environmental effects test was begun:* April 30, 1984. FDA has verified the applicant's claim that a major health or environmental effects test was begun on April 30, 1984.

2. *The date a petition requesting the issuance of a regulation for use of the food additive under section 409 of the act was initially submitted:* October 30, 1985. The applicant claims the date of October 25, 1985, as the date that a petition requesting the issuance of a regulation for the use of the food additive under section 409 of the act became effective. However, FDA records indicate that the petition did not become effective until October 30, 1985.

3. *The date the regulation for the food additive became effective:* September 28, 1990. FDA has verified that the effective date of the regulation allowing

commercial distribution of the food additive was September 28, 1990.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In this application for patent extension, this applicant seeks 731 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 29, 1991, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 27, 1991, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 60.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1991.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 91–1833 Filed 1–25–91; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, February 4–5, 1991, Building 31C, Conference Room 10, 6th Floor, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892. Meetings of the Subcommittees of the Board will be held at the times and places listed below. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, 9000 Rockville Pike, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide a summary of the meeting and rosters of the Board members, upon request.

Name of Committee: National Cancer Advisory Board.

Executive Secretary: Mrs. Barbara Bynum, Building 31, room 10A03, Bethesda, MD 20892 (301) 496–5147.

Date of Meeting: February 4–5, 1991.

Place of Meeting: Building 31C, Conference Room 10.

Closed: February 4—8 a.m. to approximately 1 p.m.

Agenda: For review and discussion of individual grant applications.

Open: February 4—approximately 1 p.m. to recess. February 5—8 a.m. to adjournment.

Agenda: Reports on activities of the President's Cancer Panel; the Director's Report on the National Cancer Institute; Scientific Presentations; Subcommittee Reports; and New Business.

Name of Committee: AIDS Subcommittee.

Executive Secretary: Dr. Judith Karp, Building 31, room 4A48, Bethesda, MD 20892 (301) 496–3505.

Date of Meeting: February 4, 1991.

Place of Meeting: Building 31C, Conference Room 8.

Open: Immediately following the recess of the NCAB meeting until approximately 6 p.m.

Agenda: Update on AIDS Vaccine.

Name of Committee: Subcommittee on Planning and Budget.

Executive Secretary: Ms. Judith Whalen, Building 31, Rm4A48, Bethesda, MD 20892 (301) 496–5515.

Date of Meeting: February 4, 1991.

Place of Meeting: Building 31C, Conference Room 8.

Open: 6 p.m. to adjournment.

Agenda: For discussion of the FY 1991 and assumptions for the 1993 by-pass budget.

Name of Committee: Subcommittee on Cancer Centers.

Executive Secretary: Dr. Brian Kimes, Executive Plaza North, room 300, Bethesda, MD 20892 (301) 496–8537.

Date of Meeting: February 4, 1991.

Place of Meeting: Building 31C, Conference Room 7.

Open: Immediately following the recess of the NCAB meeting until approximately 6 p.m.

Agenda: To discuss the review of ongoing activities and potential new policy initiatives of Cancer Centers Program.

Name of Committee: Subcommittee on Environmental Carcinogenesis.

Executive Secretary: Dr. Richard Adamson, Building 31, 11A03, Bethesda, MD 20892 (301) 496–6618.

Date of Meeting: February 4, 1991.

Place of Meeting: Building 31C, Conference Room 7.

Open: 6 p.m. until adjournment.

Agenda: Heterocyclic amines in cooked foods.

Name of Committee: Subcommittee on Minority Manpower Development.

Executive Secretary: Dr. Vincent Cairoli, Executive Plaza North, room 232B, Rockville, MD 20892 (301) 496–8580.

Date of Meeting: February 5, 1991.

Place of Meeting: Building 31, Cafeteria.

Open: 7 a.m. until approximately 8 a.m.

Agenda: Minority manpower development within the National Cancer Institute.

Name of Committee: Working Group of the Subcommittee on Agenda.

Executive Secretary: Dr. Paulette S. Gray, Westwood Building, room 852, Bethesda, MD 20892 (301) 496–7173.

Date of Meeting: February 4, 1991.

Place of Meeting: Building 31, Conference Room 7.

Open: 12 p.m.–1 p.m.

Agenda: Evaluation of program review meeting and overall evaluation of the NCAB meeting format.

This notice is being published less than 15 days prior to the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

Catalog of Federal Domestic Assistance Program Numbers: (13.392, Project grants in cancer construction; 13.393, Project grants in cancer cause and prevention; 13.394, Project grants in cancer detection and diagnosis; 13.395, Project grants in cancer treatment; 13.396, Project grants in cancer biology; 13.397, Project grants in cancer centers support; 13.398, Project grants in cancer research manpower; and 13.399, Project grants and contracts in cancer control)

Dated: January 22, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–1892 Filed 1–25–91; 8:45 am]

BILLING CODE 4140–01–M

Meeting of the Communication Disorders Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Communication Disorders Review Committee on February 21–22, 1991. The Committee will meet at the Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814. Notice of the meeting room will be posted in the hotel lobby.

The Committee meeting will be open to the public on February 21 from 8 a.m. until 8:30 a.m. to discuss administrative details relating to Committee business. Attendance by the public will be limited to space available.

The meeting of the Committee will be closed to the public on February 21 from 8:30 a.m. until recess and on February 22 from 8 a.m. until adjournment at approximately 2 p.m. in accordance with provision set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Committee meeting may be obtained from Dr. Marilyn Semmes, Executive Secretary, National Institute on Deafness and Other Communication Disordrs, room 750 Executive Plaza South, Rockville, Maryland 20850, 301–496–8683.

(Catalog of Federal Domestic Assistance Program No. 13.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated: January 11, 1991.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 91–1893 Filed 1–25–91; 8:45 am]

BILLING CODE 4140–01–M

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting of the Fogarty International Center Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the seventeenth meeting of the Fogarty International Center (FIC) Advisory Board, February 5, 1991, in the Lawton Chiles International House (Building 16), at the National Institutes of Health.

The meeting will be open to the public from 8:30 a.m. to 3 p.m. The morning agenda will include a report by the Director, FIC, on FYs 1991 and 1992 budget and program plans; a presentation on "International Science and Technology Cooperation: The View From OSTP"; and a report of FIC's Initiative in Latin Ameria and the Caribbean.

The afternoon agenda will include a report on FIC's Initiative in Eastern Europe and the Soviet Union; and a report on the NIH Advisory Committee to the Director meeting on the response to the congressional directives for FY 1991.

In accordance with the provisions of sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 3 p.m. to adjournment for the review of International Research Fellowship and Senior International Fellowship applications, Scholars' nominations, and proposals for Scholars' conferences and international studies.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 31, room B2C32, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary), Building 31, room B2C32, telephone 301–496–1491, will provide substantive program information.

Dated: January 10, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–1894 Filed 1–25–91; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Meeting of the General Clinical Research Centers Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, National Center for Research Resources (NCRR), February 20–21, 1991, Holiday Inn, Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public on February 20, 1991, from 1:30 p.m. to 2:30 p.m. during which time there will be comments by the Director, NCRR; and an update on the General Clinical Research Centers Program by Dr. Judith L. Vaitukaitis, Director, GCRC Program, NCRR. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 20 from 8:30 a.m. to 12:15 p.m., and from 2:30 p.m. to 6:30 p.m. and on February 21 from 8 a.m. to 4 p.m., for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Mr. James J. Doherty, Information Officer, NCRR, Westwood Building, room 10A15, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Bela J. Gulyas, Executive Secretary, General Clinical Research Centers, Committee, NCRR, (301) 402–0627, will furnish information on the agenda upon request.

(Catalog of Federal Domestic Assistance Program No. 93.333, Clinical Research, National Institutes of Health).

Dated: January 10, 1991.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 91–1895 Filed 1–25–91; 8:45 am]

BILLING CODE 4140–01–M

Office of Human Development Services

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) for approval a new information collection for the Administration for Children, Youth and Families' (ACYF) Program Instruction for Uniform Reporting Requirements for Child Abuse State Grant Programs.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245–6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Angela Antonelli, OMB Desk

Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Program Instruction for Uniform Reporting Requirements for Child Abuse State Grant Programs.

OMB No.: N/A.

Description: Currently, there is a substantial lack of uniformity in the National Center on Child Abuse and Neglect (NCCAN) and Regional Office instructions with respect to the format, content, and frequency of reports across the four grant programs. This lack of uniformity seriously hampers NCCAN's, the Regional Offices' and States' capability to carry out their respective responsibilities for monitoring the expenditure of Federal funds, evaluating and measuring State achievements in addressing the problems of child abuse and neglect, and compiling comprehensive information for use in developing program and policy decisions. This lack of information also imposes a hardship on States in that recordkeeping and reporting functions are more diverse and fragmented than is necessary to meet program requirements. A uniform reporting approach would enhance both the Federal and the State ability to monitor and assess their child abuse and neglect prevention and treatment efforts.

Annual Number of Respondents: 52.

Annual Frequency: 2.

Average Burden Hours Per Response: 128

Total Burden Hours: 13,312.

Dated: January 11, 1991.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 91-1848 Filed 1-25-91; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Fort Hall Irrigation Project, Idaho

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice of operation and maintenance rates.

SUMMARY: The purpose of this notice is to change the assessment rates for operating and maintaining the Fort Hall Irrigation Project for 1991 and subsequent years. The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water, including maintaining pumps and other facilities.

EFFECTIVE DATE: January 28, 1991.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE. 11th Avenue, Portland, Oregon 97232-4169, telephone FTS 429-6750; commercial (503) 231-6750.

SUPPLEMENTARY INFORMATION: On December 6, 1990 in the Federal Register, Volume 55, No. 235, Page 50417, there was published a notice of proposed assessment rates and related provisions on the Fort Hall Irrigation Project for Calendar Year 1991 and subsequent years until further notice.

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective 30 days after date of publication in the Federal Register. Operation and maintenance rates and related information are published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and delegated by the Assistant Secretary—Indian Affairs to the Area Director in BIAM 3.

This notice is given in accordance with § 171.1(e) of part 171, subchapter H, chapter I, of title 25 of the Code of Federal Regulations, which provide for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Fort Hall Irrigation Project for Calendar Year 1991 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce an increase in the Fort Hall Project assessment rates proportionate with actual operation and maintenance costs. The assessment rates for 1991 will amount to an increase of 14% for the Fort Hall unit which has not had an increase for the past eight years and a 17.5% increase for the Michaud Unit due to an increase in power rates.

Fort Hall Irrigation Project

Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including the ceded area south of the Fort Hall Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 171, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations.

Irrigation Season

Water will be available for irrigation purposes from May 1 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with

delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Request for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Duty of Water

Depending upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rate share of the total water supply.

Charges

Bills covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the leasee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1991 and subsequent years until further notice as follows:

(1) Fort Hall Unit basic unit	$19.40 per acre.
(2) Michaud Unit basic rate	$25.00 per acre.
Additional Rate for Sprinkler when pressure is supplied by project.	$12.00 per acre.
(3) Minimum Units basic rates	$14.00 per acre.

(b) The minimum bill issued for any tract will be $25.00.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date shall be considered delinquent. No water shall be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest and penalty fees will be assessed, where required by-law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, title 4, Part 102, Federal Claims Collection Standards; and 42 BIAM supplement 3, part 3.8 Debt Collection Procedures.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance assessments the same as lands in non-Indian ownership and lands owned by non-members of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, and instructions of December 1, 1938).

Ronald Brown,

Acting Portland Area Director.

[FR Doc. 91-1845 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AK-967-4230-15; AA-6986-A]

Alaska Native Claims Selection; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1615(b), will be issued to Cape Fox Corporation for approximately 2,980 acres. The lands involved are in the vicinity of Saxman and Ketchikan, Alaska.

Copper River Meridian

T. 74 S., R. 90 E., T. 74 S., R. 92 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Ketchikan Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until February 27, 1991, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Elizabeth P. Carew,

Acting Chief, Branch of KCS Adjudication.

[FR Doc. 91-1897 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-JA-M

[WO-320-4214-10; NMNM-55234]

Record of Decision (ROD), Waste Isolation Pilot Plant (WIPP) Project; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Record of Decision, WIPP.

SUMMARY: As a cooperating agency with the Department of Energy (DOE) on the Final Supplemental Environmental Impact Statement (FSEIS), for the WIPP project, the Department of the Interior adopts the FSEIS and will implement the DOE's proposed action by approving the public land order modifying the administrative withdrawal for the WIPP project as discussed below.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6071.

SUPPLEMENTARY INFORMATION: Record of Decision (ROD) for the Final Supplemental Environmental Impact Statement, Waste Isolation Pilot Plant (WIPP) Project.

As a cooperating agency with the Department of Energy (DOE) on the FSEIS, for the WIPP project, the Department of the Interior (DOI) adopts the FSEIS and will implement the DOE's proposed action by approving the public land order modifying Public Land Order No. 6403, the administrative withdrawal for the WIPP project. The modified land withdrawal will (1) expand the stated purpose of the order to include conducting the test phase of the project using retrievable, transuranic radioactive nuclear waste at the site; (2) increase the DOE's exclusive use area (the reserved area) from 640 acres to 1,453.90 acres; (3) extend the term of the withdrawal through June 29, 1997, (the term of the existing withdrawal is 8 years and is for construction of facilities) so as to provide sufficient time to conduct the experimental test phase; and (4) delete paragraph 5 of the existing order which prohibits the use of the land for the transportation, storage, or burial of radioactive materials.

A discussion of alternatives, mitigation, and public involvement is found in the ROD, as amended, issued by the Bureau of Land Management's (BLM) New Mexico State Director and published in the Federal Register on Wednesday, September 19, 1990 (FR Doc. 90-22097), and Friday, November 16, 1990 (FR Doc. 90-27108). Another alternative action would be to modify the existing withdrawal to extend the time period to 1997 without proceeding with the experimental test phase. The transuranic waste would not be shipped to or emplaced in the WIPP for the test phase, but would continue to be stored at various DOE sites. The WIPP would not be decommissioned until the term of the modified withdrawal expires. An amended withdrawal to change the term would be processed by the BLM.

January 22, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-1843 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-FB-M

[CA-940-01-4111-15; CACA 12559]

California; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease CACA 12559 for lands in Monterey County, California, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1990, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $500.00 per acre and 16-⅔ percent, respectively. Payment of a $500.00 administrative fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this notice.

Dated: January 18, 1991.

Fred O'Ferrall,

Chief, Leasable Minerals Section.

[FR Doc. 91-1841 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-JB-M

[MT-068-01-4333-12]

Commercial Permit Application; Upper Missouri National Wild and Scenic River, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana. Such a permit is required of all commercial float boat operations. Other requirements of commercial outfitting and guiding operations remain as outlined in the Federal Register Vol. 49, No. 29, Friday, February 10, 1984, entitled "Special Recreation Permit Policy." All outfitters and pilots using motorized craft must produce a copy of their U.S. Coast Guard operator's license before receiving a permit (46 CFR part 1 et al.)

ADDRESS AND DATES: Applications must be sent to the Lewistown District Office, Bureau of Land Management, Box 1160, Airport Road, Lewistown, Montana 59457 between February 1 and April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Area Manager, Judith Resource Area, Box 1160, Airport Road, Lewistown, Montana 59457.

Dated: January 17, 1991.

Wayne Zinne,

District Manager.

[FR Doc. 91-1842 Filed 1-25-91; 8:45 am]

BILLING CODE 4310-DN-M

[G-040-G1-0402-4410-10]

Oklahoma Resource Management (OK RMP)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, Oklahoma Resource Area, has announced an extension of the public comment period and an additional public meeting for receipt of comments concerning the preparation of a Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for BLM managed Federal lands and minerals throughout the state of Oklahoma. The Code of Federal Regulations, title 43, subpart 1600 (43 CFR 1600) will be followed in the preparation of this plan. The public has been invited to participate in this land use planning effort, beginning with the identification of issues and planning criteria (Federal Register Vol. 55, No. 232, page 49950.

The level of public response to the Notice of Intent to conduct land use planning has necessitated the extension of the public comment period through February 28, 1991 and the need for an additional public scoping meeting/open house.

DATES: Comments relating to the identification of issues and planning criteria will be accepted until February 28, 1991.

ADDRESSES: Comments and requests to be included on the mailing list should be sent to: Paul Tanner, Area Manager, Bureau of Land Management, Oklahoma Resource Area, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma 73102.

FOR FURTHER INFORMATION CONTACT: Paul W. Tanner, Area Manager, or Brian Mills, RMP Team Leader, Oklahoma Resource Area, (405) 231-5491, or FTS 736-5491.

SUPPLEMENTARY INFORMATION: The planning area for the Oklahoma RMP will include all BLM managed Federal surface and mineral estate within Oklahoma. This includes approximately 90,000 Public Domain (PD) surface acres, 573,000 acres of split estate minerals (private surface over Federal minerals) and approximately 850,000 acres of Federal mineral estate underlying other Federal surface management agencies (SMA's) lands. The anticipated issues to be addressed by this RMP/EIS effort include oil and gas leasing and subsequent development, the identification of areas acceptable for

further consideration for coal leasing and the eligibility of segments of the Red River for evaluation under the provisions of the Wild and Scenic Rivers Act. The proposed planning issues and criteria which were presented for public comment (**Federal Register** Vol. 55, No. 232, page 49950) are subject to change based upon such public comment. Comments and suggestions should be received by February 28, 1991. The planning team will seek public involvement throughout the planning process. An additional public scoping meeting to gather comments on the preliminary issues and criteria has been scheduled for: February 21, 1991, 4–7 p.m., Ramada Inn, 401 Broad Street, Wichita Falls, Texas.

Complete records of all phases of the planning process will be available for public review at the Oklahoma Resource Area office, 200 NW 5th Street, Room 548, Oklahoma City, Oklahoma, 73102.

Draft and final RMP/EIS documents will be available upon request.

Dated: January 18, 1991.

Jim Sims,

District Manager.

[FR Doc. 91–1856 Filed 1–25–91; 8:45 am]

BILLING CODE 4310–FB–M

Bureau of Reclamation

[DEIR/DEIS: DE891–03]

Salinas Valley Seawater Intrusion Program, Castroville, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public hearings on Draft Environmental Impact Report/Draft Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended, the Council of Environmental Quality Guidelines (40 CFR Part 1500), and section 21002 of the California Environmental Quality Act, the Bureau of Reclamation (Reclamation), the Monterey County Flood Control and Water Conservation District (MCFCWCD), and the Monterey Regional Water Pollution Control Agency (MRWPCA) have prepared a joint DEIR/DEIS. The DEIR/DEIS addresses the impacts from implementation of the Seawater Intrusion Project for which a Public Law 84–984 loan application is pending with Reclamation.

DATES: A 60-day public review period commences with the publication of this notice. Within that review period, written comments on the DEIR/DEIS may be submitted to either the MCFCWCD or the Regional Director, Mid-Pacific Region, Bureau of Reclamation, at the addresses provided on the following page.

A public hearing on the DEIR/DEIS will be held: March 6, 1991, 7 p.m., Board of Supervisors Chambers, 240 Church Street, Salinas, CA 93901.

ADDRESSES: Copies of the DEIR/DEIS may be requested at the following addresses:

Regional Director, Bureau of Reclamation (Code: MP–205), Mid-Pacific Region, 2800 Cottage Way, Sacramento, CA 95825–1898; or

Monterey County Flood Control and Water Conservation District, P.O. Box 930, Salinas, CA 93902.

Copies of the DEIR/DEIS are available for inspection at the addresses above and at the following locations:

Office of the Commissioner, Bureau of Reclamation, Technical Liaison Division, 18th and C Streets, NW., room 7456, Washington, DC 20240; telephone (202) 208–4054.

Denver Office, Bureau of Recalmation, Library, room 167, Building 67, Denver Federal Center, Denver, CO 80225; telephone (303) 236–6963.

Libraries

California State University, 2000 Jed Smith Dr., Sacramento, CA 95819

Sacramento Country Library, 536 Downtown Plaza, Sacramento, CA 95814

University of California, Water Resources Center, Berkeley Archives Collection, Berkeley, CA

Numerous local libraries within the vicinity will receive copies for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Chelini, Regional Loan Engineer, Bureau of Reclamation (Code: MP–205), Mid-Pacific Region, telephone: (916) 978–5002 or Mr. Mohammed Zaman, MCFCWCD, telephone: (408) 755–4860.

SUPPLEMENTARY INFORMATION: The purpose of the project is to reduce seawater intrusion into the ground water in the Castroville and Marina/Fort Ord areas. Surface water would be provided to these areas to reduce ground-water depletion. The depletion results in the intrusion of seawater into the freshwater aquifers of the Salinas River ground-water basin.

The proposed alternative consists of operational changes of San Antonio and Nacimiento Dams, and seasonal installation of a 200-foot inflatable diversion structure located in the Salinas River about 5 miles upstream from the mouth of the Salinas River. It also includes construction of a pump station, placement of about 50 miles of buried pipeline in the Castroville area, and construction of a tertiary wastewater treatment plant. The reclaimed wastewater from the plant would provide up to 20,940 acre-feet of irrigation water by the year 2005. For Marina and Fort Ord, a dispersed field of 8 to 12 water wells would be located along the Salinas River between the town of Spreckels and Somovia Road. Water would be pumped from the well field to Fort Ord and Marina via a 16-mile pipeline located parallel to Reservation and River Roads.

Other alternatives considered include the proposed project with no wastewater reclamation, construction of a dam on the Arroyo Seco River for diversion of water, drilling wells along the coast to extract seawater, and no action.

Primary impacts evaluated in the DEIR/DEIS include effects on water quality, fish and wildlife, floodplains and wetlands, and socioeconomics (including growth inducement.)

Anyone interested in more information concerning the project or who has suggestions as to significant environmental issues should contact the people listed above.

Dated: January 7, 1991.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 91–1941 Filed 1–25–91; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Herman Miller, Inc., 8500 Byron Road, Zeeland, MI 49464.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Helikon Furniture Company, Inc., CT.

(ii) Meridian, Inc., MI.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–1940 Filed 1–25–91; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. 40471]

Agribusiness Shippers Group; Petition for Declaratory Order, Delinking of Rate Changes from the RCAF–RCCR Process

AGENCY: Interstate Commerce Commission.

ACTION: Request for comments.

SUMMARY: Most of the larger railroads have filed tariffs cancelling their participation in the cost recovery process established in *Railroad Cost Recovery Procedures*, 3 I.C.C.2d 60 (1986). The Commission is entertaining comments on a petition filed by Agribusiness Shippers Group addressing the effect that this cancellation may have on rates previously established under the cost recovery provisions of 49 U.S.C. 10707a.

DATES: Comments must be filed by April 1, 1991. Replies are due on April 16, 1991.

ADDRESSES: Send an original and 10 copies to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

William T. Bono (202) 275–7354

Robert C. Hasek (202) 275–0938

[TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. Assistance for the hearing impaired is available through TDD services (202) 275–1721.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Decided: January 10, 1991.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Emmett, and McDonald. Vice Chairman Phillips concurred in the result with a commenting separate expression.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–1939 Filed 1–25–91; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub–No. 327X)]

Burlington Northern Railroad Co.; Abandonment and Discontinuance of Trackage Rights Exemption in Walla Walla County, WA, and Umatilla County, OR

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by Burlington Northern Railroad Company of 35.30 miles of rail line in Walla Walla County, WA, and Umatilla County, OR, and the discontinuance of trackage rights over 1.13 miles of rail line in Umatilla County, subject to the following conditions: (1) Standard labor protection; (2) historic preservation; (3) endangered species; and (4) public use.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 27, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 7, 1991. Petitions to stay must be filed by February 12, 1991, and petitions for reconsideration must be filed by February 22, 1991.

ADDRESSES: Send pleadings referring to Docket No. AB–6 (Sub-No. 327X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(1) Petitioner's representative:

Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275–7245 [TDD for hearing impaired (202) 275–1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275–1721.]

Decided: January 17, 1991.

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 91–1938 Filed 1–25–91; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 368X)]

CSX Transportation, Inc.—Abandonment Exemption—in Upshur and Randolph Counties, WV

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 12.01-mile line of railroad between milepost 17.0, near Alexander, and milepost 29.01, near Pickens, in Upshur and Randolph Counties, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal experssion of intent to file an offer of financial assistance has been received, this exemption will be effective on February 27, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1]

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date on the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by February 7, 1991.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by February 19, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Lawrence H. Richmond, CSX Transporation, Inc., 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by February 1, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 22, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–1936 Filed 1–25–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31816]

Iron Cliffs Railway Co.—Operation Exemption—Pepin-Ireco Incorporated Line in Marquette County, MI

Iron Cliffs Railway Company (IC), a noncarrier, filed a notice of exemption to operate Pepin-Ireco Incorporated's National Mine Line, extending between milepost 0.0, at or near West Ishpeming, and milepost 3.2, at or near Pluto, in Marquette County, MI, a distance of approximately 3.2 miles.[1] ICRC will become a class III rail carrier. The transaction was to have been consummated by commencement of IC operations on or about December 31, 1990.[2]

Any comments must be filed with the Commission and served on: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland & Herman, 225 West Washington Street, 4th floor, Chicago, IL 60606–3418.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 22, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–1937 Filed 1–25–91; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration; Correction

In notice document 90–25909 beginning on page 46261 in the issue of Friday, November 2, 1990, make the following correction:

On page 46261, the last paragraph should read "The Drug Enforcement Administration erroneously failed to note that a registered manufacturer did file an objection with respect to methylphenidate (1724). Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above, which the exception of methylphenidate (1724), is granted."

Dated: January 18, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91–1858 Filed 1–25–91; 8:45 am]

BILLING CODE 4410–01–M

[Docket No. 90–52]

Winn's Pharmacy, Baltimore, MD; Hearing

Notice is hereby given that on July 12, 1990, the Drug Enforcement Administration, Department of Justice, issued to Winn's Pharmacy, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AM6904064, and deny any pending applications for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on February 5 and 6, 1991, commencing at 10:30 a.m., at the Drug Enforcement Administration Headquarters, 600 Army Navy Drive, Hearing Room, room E–2103, Arlington, Virginia.

Dated: January 18, 1991.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 91–1857 Filed 1–25–91; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91–06]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Review Team on Advanced Life Support Technology.

DATES: February 26, 1991, 8 a.m. to 5 p.m.; and February 27, 1991, 8 a.m. to 12

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[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

[1] The line's previous owner and operator, Chicago and North Western Transportation Company, was granted an exemption to abandon it in Docket No. AB–1 (Sub-No. 201X), *Chicago and North Western Transportation Company—Abandonment Exemption—In Marquette County, MI* (not printed), served May 22, 1989.

[2] The notice of exemption in this proceeding was filed December 28, 1990. Under the Commission's rules, the exemption will be effective 7 days after the notice is filed. 49 CFR 1150.32(b).

noon (to be held at George C. Marshall Space Flight Center); and February 28, 1991, 8:30 a.m. to 5 p.m. (to be held at Lyndon B. Johnson Space Center).

ADDRESSES: National Aeronautics and Space Administration, George C. Marshall Space Flight Center, room 5025, Building 4610, George C. Marshall Space Flight Center, AL 35812; and National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, room 141, Building 7, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Evanich, Office of Aeronautics, Exploration and Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202–453–2843.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (SSTAC) was established to provide overall guidance to the Office of Aeronautics, Exploration and Technology (OAET) on space systems and technology programs. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Advanced Life Support Technology, chaired by Mr. Adrain P. O'Neal, is composed of eight members.

The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the team members and other participants).

TYPE OF MEETING: Open.

Agenda:

February 26, 1991

8 a.m.—Opening Remarks.
8:45 a.m.—Overview of Life Support Systems Activities at Marshall Space Flight Center.
9:15 a.m.—Space Station Baseline Life Support System.
12:30 p.m.—Advanced Life Support Technology Program.
1:30 p.m.—Space Station Life Support Testing Program.
2:45 p.m.—Environmental Control/Life Support Facility Tour.
5 p.m.—Adjourn.

February 27, 1991

8 a.m.—Water Recovery Subsystem Selections.
10 a.m.—Oxygen Recovery Subsystem Selections.
10:45 a.m.—Space Station Life Support Restructuring.
12 noon—Adjourn.

February 28, 1991

8:30 a.m.—Opening Remarks.
9 a.m.—Advanced Life Support Research Program.
11 a.m.—Thermal Control Research Program.
1 p.m.—Facility Tours.
3 p.m.—Portable Life Support Research Program.
5 p.m.—Adjourn.

Dated: January 22, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91–1905 Filed 1–25–91; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Division of Engineering Infrastructure Development Special Emphasis Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in the Division of Engineering Infrastructure Development.

Date: February 11, 1991.

Time: 8:30 to 5.

Place: St. James Hotel, 920 24th Street NW., Washington DC.

Type of Meeting: Closed.

Agenda: Review and evaluate Research Experiences for Under-graduates (REU) Proposals.

Contact: Dr. Lucy C. Mores, Associate program Manager, Human Resources Development, National Science Foundation, 1776–G DEID, Washington, DC. 20550 (202–786–9631).

Dated: January 22, 1991.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 91–1838 Filed 1–25–91; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G Street NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357–7363.

Dated: January 22, 1991.

M. Rebecca Winkler,

Committee Management Officer.

NATIONAL SCIENCE FOUNDATION

Committee name	Street address	Room	Times	Date(s)
Proposal Review Panel for Undergraduate Science, Engineering, and Mathematics Education.	Arlington, VA		7:30 pm to 10:30 pm	02/13/91
			8:00 am to 10:00 pm	02/14/91
			8:00 am to 10:00 pm	02/15/91
			8:00 am to 1:00 pm	02/16/91

NATIONAL SCIENCE FOUNDATION—Continued

Committee name	Street address	Room	Times	Date(s)
Agenda: Proposal Review.				

NATIONAL SCIENCE FOUNDATION

Committee name	Agenda	Room*	Date(s)	Times
Proposal Review Panel for Undergraduate Science, Engineering, and Mathematics Education.	Proposal Review		02/13/91 02/14/91 02/15/91 02/16/91	7:30 pm to 10:30 pm. 8:00 am to 10:00 pm. 8:00 am to 10:00 pm. 8:00 am to 1:00 pm.
Special Emphasis Panel in Chemistry	Postdoctoral Fellowships Review.	540	02/11/91 02/12/91	7:00 pm to 10:00 pm. 8:00 am to 7:00 pm.

*At 1800 G Street NW., Washington, DC.

[FR Doc. 91–1839 Filed 1–25–91; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Entergy Operations, Inc., Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a one-time exemption from the requirements of 10 CFR part 55 to Entergy Operations, Inc. (the licensee), for the Arkansas Nuclear One, Unit 1 (ANO–1) located in Pope County, Arkansas.

Environmental Assessment

Identification of Proposed Action

The exemption would grant a three-month extension in 1991 to the annual and biennial requalification program schedule requirements of 10 CFR 55.59(a) and (c).

The licensee's request for exemption, and the bases therefore, are contained in the licensee's application for exemption dated November 2, 1990.

The Need for the Proposed Action

The proposed exemption is from the annual and biennial requalification program schedule requirements of 10 CFR 55.59(a) and (c). The licensee is requesting a three-month extension in 1991 from the annual and biennial requalification program requirements to align the ANO–1 requalification program with the National Examination Schedule. This one-time exemption will result in a permanent adjustment to the 24-month requalification cycle and the annual requalification examination schedule.

Generic Letter 89–03 established the National Examination Schedule and allotted examination months of February and August to ANO–1. The current ANO–1 requalification cycle ends in May 1991. The licensee stated that scheduling the examinations in February 1991 is causing hardships due to the compression of the training cycle which would be required, and due to the proximity of the ANO–1 and ANO–2 refueling outages. Also, the exemption is necessary to avoid operators' duplicative effort because of the misaligned schedules between the NRC and the licensee administered requalification examinations.

Environmental Impacts of the Proposed Action

The proposed action would align the ANO–1 requalification cycle with the NRC National Examination Schedule. This exemption will not increase the risk of facility accidents. Thus, post-accident radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect the quantity of radiological plant effluent, nor result in any significant increase in occupational exposure. Likewise, the exemption does not affect nonradiological plant effluent and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Because it has been concluded that there is no measurable impact associated with the proposed exemption, any alternatives to the exemption will have either no environmental impact or greater environmental impact. Since the Commission has concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative to the exemption would be to deny the requested exemption. This would not reduce the environmental impacts attributable to this facility and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to operation of the ANO–1 facility, dated February 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated November 2, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Rockville, Maryland, this 17th day of January 1991.

For the Nuclear Regulatory Commission.

Thomas P. Gwynn,

Acting Director, Project Directorate IV–1, Division of Reactor Projects III, IV, and V, Office of Nuclear Reactor Regulation.

[FR Doc. 91–1916 Filed 1–25–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–328]

Tennessee Valley Authority Sequoyah Nuclear Plant, Unit 2

Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from a requirement of section III.D.1(a) of appendix J to 10 CFR part 50 to the Tennessee Valley Authority (the licensee) for the Sequoyah Nuclear Plant, Unit 2. The unit is located at the licensee's site in Hamilton County, Tennessee. The exemption was requested by the licensee in its letter dated August 31, 1990.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would allow the licensee relief from the provision of section III.D.1(a) of Appendix J that requires that the third test of each set of three Type A, or containment integrated leak rate, tests for a 10-year service period shall be conducted when the unit is shutdown for the 10-year unit inservice inspection (ISI). In its letter, the licensee requested an exemption for Unit 2 to separate the third test of each 10-year service period from the 10-year ISI. This exemption would allow the third test of each 10-year service period and the 10-year ISI to be scheduled separately for Unit 2.

The third Type A test for Unit 2 for the first 10-year service period is scheduled for the Unit 2 Cycle 5 refueling outage (i.e., April to May, 1992). The 10-year ISI is not related to the integrity of the containment pressure boundary and is currenly scheduled for 1993 in accordance with section XI of the American Society of Mechanical Engineers (ASME) Code and with 10 CFR 50.55a(g)(4). TVA stated that it intends to conduct the Unit 2 10-year ISI during the Unit 2 Cycle 6 refueling outage (i.e., October to November, 1993). The first 10-year ISI for Unit 2 is, therefore, scheduled for a future refueling outage rather than the Unit 2 Cycle 5 refueling outage. Each future 10-year ISI will, therefore, also be scheduled for a different outage than the outage for the third Type A test of any 10-year service period.

The Need for the Proposed Action

The proposed exemption is required to permit the licensee to uncouple the third Type A test for a 10-year service period from the 10-year ISI for Unit 2 only.

Environmental Impacts of the Proposed Action

With respect to the requested exemption, the relief from the above requirement of appendix J would only permit the licensee to conduct the third Type A test in a 10-year service period and the 10-year ISI in different outages. The 10-year ISI would be conducted at an outage later than the Type A test. With regard to potential radiological environmental impacts, the proposed exemption would not allow the licensee to operate Unit 2 longer nor at a higher power level than allowed by the operating license for the unit. Neither the probability of accidents nor the radiological releases from an accident will be increased because the proposed exemption does not reduce any requirements on containment integrity nor on the 10-year ISI. The proposed exemption does not increase the radiological effluents from the facility and does not increase the occupational exposure at the facility. Therefore, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential non-radiological environmental impacts, the proposed exemption involves systems located within the restricted areas as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Therefore, the proposed exemption does not significantly change the conclusions in the licensee's "Final Environmental Statement Related to the Operation of Sequoyah Nuclear Plant, Units 1 and 2," (FES) dated February 21, 1974. The Commission concluded that operation of the Sequoyah units will not result in any environmental impacts other than those evaluated in the FES in its letter to the licensee dated September 15, 1981 which granted the Facility Operating License DPR–79 for Unit 2.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative to the exemption will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of Unit 2 operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Sequoyah Nuclear Plant, Units 1 and 2," dated February 21, 1974.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request dated August 31, 1990 that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the licensee's request for the exemption dated August 31, 1990, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland this 17th day of January 1991.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–1919 Filed 1–25–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on February 7–9, 1991, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the Federal Register on December 19, 1990.

Thursday, February 7, 1991, room P–110, 7920 Norfolk Avenue, Bethesda, Md.

8:30 a.m.–8:45 a.m.: Chairman's Remarks (Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.–10 a.m. and 10:15 a.m.–11 a.m.: Training and Qualification of Civilian Nuclear Power Plant Personnel (Open)—The Committee will review and report on the proposed NRC rule regarding training and qualification of civilian nuclear power plant personnel. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

11 a.m.–12 Noon: EPRI Requirements for Advanced Light Water Reactors (Open)—The Committee will be briefed by representatives of the NRC staff regarding staff plans for review of the EPRI "roll-up" document for ALWRs.

1 p.m.–2:15 p.m.: Containment Design Criteria for Future Light Water Reactors (Open)—The Committee will hold a discussion of a proposed ACRS report to NRC regarding containment design criteria for future LWRs.

2:30 p.m.–3:30 p.m.: Instrumentation to Follow the Course of a Serious Accident in Light Water Nuclear Power Plants (Open)—The Committee will be briefed by representatives of the NRC staff regarding the status of implementation of NRC Regulatory Guide 1.97 and associated problems.

3:30 p.m.–4:15 p.m.: Future ACRS Activities (Open)—The Committee will discuss anticipated ACRS subcommittee activities and items proposed for consideration by the full Committee.

4:15 p.m.–6:15 p.m.: Individual Plant Examination for External Events (Open)—The Committee will review and comment on proposed Supplement 4 to NRC Generic Letter 88–20 (NUREG–1407).

Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

Friday, February 8, 1991.

8:30 a.m.–9:30 a.m.: Standard Review Plan for Spent Nuclear Fuel Storage Casks (Open)—The Committee will review and report on the proposed NRC Standard Review Plan for evaluation of dry metallic spent nuclear fuel storage casks. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

9:45 a.m.–11:30 a.m.: Containment Design Criteria for Future Light Water Reactors (Open)—The Committee will continue discussion of a proposed ACRS report to the NRC on this subject.

11:30 a.m.–12:15 p.m.: Primary Systems Integrity (Open)—The Committee will hear a briefing regarding a preliminary report of test results regarding performance of flawed piping.

1:15 p.m.–3:15 p.m.: Definition of a Large Release for Severe Accidents (Open)—The Committee will review and report on proposed staff actions per SECY–90–405, Formulation of a Large Release Definition and Supporting Rationale. Members of the NRC staff will participate, as appropriate.

3:30 p.m.–4:15 p.m.: ACRS Subcommittee Activities (Open)—The Committee will discuss the reports of subcommittee activities regarding the status of assigned subcommittee activities including fire protection in nuclear power plants, use of computers in nuclear plants, and fitness for duty requirements for nuclear power plant operators.

4:15 p.m.–6 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports to NRC regarding items considered during this meeting.

Saturday, February 9, 1991.

8:30 a.m.–12 Noon: Preparation of ACRS Reports (Open)—The Committee will discuss proposed reports to NRC regarding items considered during this meeting and ACRS action regarding items which were not completed at previous meetings as time and availability of information permit.

1 p.m.–1:45 p.m.: Appointment of ACRS Members (Closed)—The Committee will discuss the qualifications of candidates proposed for appointment as members of the Committee.

Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

1:45 p.m.–2:30 p.m.: ACRS Activities (Open)—The Committee will discuss a proposed revision of the ACRS Bylaws and other administrative matters as appropriate.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1990 (55 FR 40249). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 301/492–8049), between 8 a.m. and 4:30 p.m.

Dated: January 22, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 91–1920–01–M Filed 1–25–91; 8:45 am]

BILLING CODE 7590–01–M

Power Authority of the State of New York; Withdrawal of Application for Amendment to Facility Operating License

[Docket No. 50–286]

The United States Nuclear Regulatory Commission (the Commission) has granted the request of the Power Authority of the State of New York (the licensee) to withdraw its June 21, 1990, application for proposed amendment to Facility Operating License No. DPR–64 for the Indian Point Nuclear Generating Unit No. 3, located in Westchester County, New York.

The proposed amendment would have revised the Technical Specifications regarding generic replacement of failed fuel rods with filler rods or open water channels as per the guidance provided by Generic Letter 90–02.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 13, 1990, (55 FR

28852). However, by letter dated July 26, 1990, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 21, 1990, and the licensee's letter dated July 26, 1990, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 11th day of January, 1991.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–1 Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–1915 Filed 1–25–91; 8:45 am]

BILLING CODE 7590–01–M

Availability of Revised Staff Technical Position on Waste Form

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of a revised Staff Technical Position entitled "Technical Position on Waste Form (Revision 1)."

The Position provides guidance on acceptable methods for demonstrating compliance with the waste form structural stability requirement of 10 CFR part 61 and for supporting the waste generator and processor certification requirements of 10 CFR 20.311.

The Technical Position on Waste Form was initially developed in 1983 to provide guidance to low-level radioactive waste generators on waste from test methods and results acceptable to the NRC staff for implementing the 10 CFR part 61 waste form requirements. Since the initial issuance of the technical position, field experience and laboratory testing of cement-solidified low-level waste have indicated that some unique chemical and physical interactions can occur between the cement and the waste constituents, interactions that can affect the waste form stability. Therefore, an appendix (appendix "A") dealing with cement-stabilized waste forms has been included in this revision to the Technical Position.

To provide more comprehensive guidance on cement stabilization of low-level radioactive waste, Appendix A addresses several areas of concern that were not considered in the May 1983, Revision 0, version of this Technical Position. Information and guidance on cement waste form specimen preparation, statistical sampling and analysis, waste characterization, process control program (PCP) specimen preparation and examination, surveillance specimens and reporting of mishaps are provided in appendix A.

The guidance provided in the revised Technical Position is the culmination of an extended period of study and information gathering and exchange between the NRC staff and representatives of various organizations including government laboratories, the Advisory Committee on Nuclear Waste (ACNW), cement processing vendors, other waste form vendors, nuclear utilities, and state regulatory agencies. Especially useful in the development of the guidance in appendix A was the information exchanged in a Workshop on Cement Stabilization of Low-Level Radioactive Waste held in June 1989.

The Workshop proceedings have been published as an NRC report, NUREG/CP–0103, which is available from the following sources:

Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082, and

National Technical Information Service, Springfield, VA 22161.

Copies of the revised Technical Position are being distributed (under separate cover) to licensees. Copies are also distributed (separately) by State Programs to the Agreement States, Non-Agreement States, State Liaison Officers, and others who are on the NRC's Compact Distribution List.

ADDRESSES: Copies of the Staff Technical Position may be obtained by writing to M.T. Adams at Mail Stop 5E–2 OWFN, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: M.T. Adams, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–0505.

Dated at Rockville, Maryland, this 18th day of January, 1969.

For the Nuclear Regulatory Commission.

Paul H. Lohaus,

Chief, Low-Level Waste Management Branch, Division of Low-Level Waste Management and Decommissioning, NMSS.

[FR Doc. 91–1918 Filed 1–25–91 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Express Mail International Service (EMS); Implementation of Rate Changes

AGENCY: Postal Service.

ACTION: Notice of rate changes for EMS.

SUMMARY: The Postal Service announces implementation of new rates for Express Mail International On Demand and Custom Designed services effective at 12:01 a.m., February 3, 1991.

EFFECTIVE DATE: 12:01 a.m., February 3, 1991.

FOR FURTHER INFORMATION CONTACT: John F. Alepa (202) 268–2650.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is implementing changes in rates for Express Mail International Service (EMS) to become effective simultaneously with changes to domestic and (other) international rates and fees. Coordination of changes in domestic, international and EMS rates is more efficient for both the Postal Service and mailers.

In addition to rate adjustments for On Demand and Custom Designed services, this implementation includes an expansion in the number of basic rate groups, from four to six, and a rearrangement of countries within rate groups.

As required by the Postal Reorganization Act, the rates (1) are fair and reasonable, (2) are not unduly or unreasonably discriminatory or preferential, (3) apportion the costs of the service to mailers on a fair and equitable basis, and (4) do not apportion the costs of the service so as to impair the overall value of the service to the users.

The new EMS rates and rate groups are set forth in the tables below.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

I. On Demand Service

RATE TABLES FOR EXPRESS MAIL INTERNATIONAL SERVICE (EMS)

Pounds (up to and including)	Rate Groups (See Section III.)					
	1	2	3	4	5	6
0.5	$11.50	$13.00	$13.00	$14.00	$14.00	$14.00
1	16.00	16.00	16.00	19.00	19.00	19.00
2	21.00	21.00	21.00	25.00	25.00	25.00
3	25.00	27.00	27.00	30.00	28.50	34.00
4	28.40	34.00	34.00	35.50	33.50	41.00
5	31.80	39.10	40.00	41.65	38.50	48.00
Each additional pound	3.50	4.90	6.20	6.15	4.90	7.00

Notes:
(1) Weight limitations vary, see IMM for application.
(2) Pickup is available under Service Agreement for an added charge of $4.50.

II. Custom Designed Service

Pounds (up to and including)	Rate Groups (See Section III.)					
	1	2	3	4	5	6
0.5	$19.50	$21.00	$21.00	$22.00	$22.00	$22.00
1	24.00	24.00	24.00	27.00	27.00	27.00
2	29.00	29.00	29.00	33.00	33.00	33.00
3	33.00	35.00	35.00	38.00	36.50	42.00
4	36.40	42.00	42.00	43.50	41.50	49.00
5	39.80	47.10	48.00	49.65	46.50	56.00
Each additional pound:	3.50	4.90	6.20	6.15	4.90	7.00

Notes:
(1) Weight limitations vary, see IMM for application.
(2) Pickup is available under Service Agreement for an added charge of $4.50.

III. EMS Rate Groups

Group 1

Canada
Mexico
United Kingdom

Group 2

Belgium
France
Germany
Ireland
Netherlands
Switzerlands

Group 3

Australia
China
Hong Kong
Japan
Korea
Singapore
Taiwan
Thailand

Group 4

Austria
Czechoslovakia
Denmark
Finland
Greece
Hungary
Iceland
Italy
Luxembourg
Norway
Poland
Portugal
Romania
Spain
Sweden
Turkey
USSR
Yugoslavia

Group 5

Argentina
Aruba
Bahamas
Barbados
Bermuda
Bolivia
Brazil
Cayman Islands
Chile
Colombia
Costa Rica
Ecuador
El Salvador
Guatemala
Guyana
Honduras
Netherlands Antilles
Panama
Paraguay
Peru
St. Lucia
Trinidad & Tobago
Uruguay
Venezuela

Group 6

Bahrain
Bangladesh
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Central African Republic
Chad
Cote d'Ivoire
Cyprus
Djibouti
Egypt
Ethiopia
Gabon
Ghana
Guinea
India
Indonesia
Iraq
Israel
Jordan
Kenya
Kuwait
Lesotho
Liberia
Macao
Madagascar
Malawi
Malaysia
Maldives
Mali
Morocco
Mozambique
New Zealand
Niger
Nigeria
Oman
Pakistan
Papua New Guinea
People's Republic of Congo
Qatar
Rwanda
Saudi Arabia
Senegal
Sierra Leone
Somalia
South Africa
Sri Lanka
Sudan
Swaziland
Tanzania
Togo
Tunisia
Uganda
United Arab Emirates
Vanuatu
Zaire
Zambia
Zimbabwe

[FR Doc. 91-1970 Filed 1-25-91; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28808; File No. 4-281]

Joint Industry Plan; Order Approving the Fifteenth Amendment to the Consolidated Tape Association Plan and the Nineteenth Amendment to the Consolidated Quotation Plan

I. Introduction

On September 27, 1990, the participants in the Consolidated Quotation Plan ("CQ Plan") and the Consolidated Tape Association ("CTA") submitted amendments to the plan governing the operation of the Consolidated Quotation System (CQS) and the plan governing the operation of the Consolidated Transaction System ("CTS"). The amendments to both Plans were filed with the Securities and Exchange Commission ("SEC") pursuant to paragraph (c)(2) of Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"). The CTA amendments also were submitted pursuant to Rule 11Aa3-1 under the Act.

Notice of the proposed amendments was provided in Securities Exchange Act No. 28545 (October 16, 1990), 55 FR 42789. The Commission received three comment letters in response to its notice, which are discussed below.

II. Description of the Amendments and Plan Participants' Rationale

The CTA participants intended the amendments to serve four purposes. The amendments: (1) Make the Chicago Board Options Exchange ("CBOE") a participant in the CTA Plan and in the CQ Plan; (2) alter the revenue sharing provisions of the CTA and CQ Plans; (3) amend the CTA Plan procedures for becoming a Plan participant to make those provisions consistent with the procedures in the CQ Plan; and (4) make several technical conforming amendments.

A. CBOE Participation

On October 19, 1990, the Commission approved a package of rules that authorized the CBOE to provide trading

facilities for individual stocks and other non-option securities for the first time.[1] Rule 11Aa3–1 requires that every exchange file a transaction reporting plan for transactions in listed equity and NASDAQ securities executed through its facilities.[2] In light of its plans to provide trading facilities for such securities, the CBOE requested that it be made a participant in the CTA Plan. In addition, Rule 11Ac1–1 requires that each exchange establish and maintain procedures for the collection and dissemination to vendors of quotation data.[3] Because the CQ Plan provides such procedures, the CBOE also requested that it be made a participant in the CQ Plan. The amendments add CBOE as a participant in both Plans.

B. Revenue Sharing Provisions

The amendments alter the provisions contained in both Plans that govern how revenues received for the market data disseminated pursuant to the Plans are to be distributed among the participants. Specifically, the amendments alter the calculation of "Annual Share," which represents the relative percentage of last sale reports and quotations submitted to the Plan processor by each participant and is the basis for apportioning Plan revenues. The amendments exclude from the Annual Share calculation last sale prices on any security that is the subject of a contractual relationship that grants a participant: (1) The exclusive right to trade the security or (2) the discretion to determine which other participants may trade the security.[4]

In their submission, the participants stated that the original participants to the CTA Plan filed the Plan to provide a system to disseminate on a consolidated basis last sale prices of securities traded on more than one of the participants and thereby to comply with Rule 17a–15 (later redesignated as Rule 11Aa3–1) of the Act. The participants also stated that they believe that the CTA Plan, as originally filed, did not contemplate the use of the CTA facilities to disseminate last sale prices relating to anything other than securities that are eligible for multiple trading on the participant markets.[5]

The participants acknowledged, however, that, in certain circumstances, they have allowed participants to use the CTA facilities to disseminate last sale prices on other issues. For example, the participants amended the CTA Plan in 1978 to permit the concurrent use of the facilities for the reporting of the last sale prices relating to "local" issues that did not meet the CTA Plan's definition of an "Eligible Security." The participants stated, however, that they excluded those local issues in the calculation of each participant's annual share of revenue. In addition, the participants stated that they have traditionally allowed participants to use CTA and CQ systems to disseminate information relating to exclusively traded securities, but only at the exclusion of those last sale prices from the Annual Share calculations. Thus, the participants stated that they believe that it is appropriate that the amendments extend the exclusively traded security principle to the new circumstance presented by the CBOE's proosed participaiton.

C. New Participant Provisions

The amendments also amend the CTA Plan procedures for becoming a Plan participant to make those provisions consistent with those in the CQ Plan. Both Plans contain provisions to the general effect that any other national securities exchange may become a participant. The CQ Plan contains a specific mechanism to effect the addition of a new participant but the CTA Plan does not. The participants stated that they believe the Plans should be in conformity on this matter and, accordingly, proposed amendments to the CTA Plan to conform it to the CQ Plan. In addition, the amendments add a new section to the CTA Plan to provide that the Plan, and any contracts and resolutions made pursuant to the Plan, shall be effective as to that participant when, among other things, the participant has begun to furnish last sale prices to the Processor.

D. Conforming Amendments

As noted above, the submission also contained various conforming amendments. These amendments generally add references to the CBOE throughout the Plan, as necessary.

III. Implementation of the Amendments

The participants noted that the CBOE will commence trading Eligible Securities prior to the time that the Plans' processor will have completed the sytem modifications to the CTS and the CQS that are required to enable these systems to receive, process, consolidate and disseminate CBOE last sale prices and/or bid and asked prices. The processor has provided the CBOE with estimates of the costs and time needed to complete the work, currently targeted for early February, 1991.[6] In the interim, CBOE plans to disseminate date through CTS and CQS facilities through the input circuits of another participant, the Cincinnati Stock Exchange, Inc., ("CSE"), until CBOE is able to transmit information directly to the processor. Among other implications, this procedure will result in the reporting of CBOE trade reports and quotations with a CSE market identifier.[7] The participants also stated that the CBOE and the CSE have agreed that the CBOE would refrain from commencing to trade any Eligible Security traded by the CSE for the duration of the CBOE's use of the CSE's input circuits in order to avoid the confusion and practical problems that would result from having both exchanges transmitting indistinguishable trade reports and quotations in the same activity.[8]

IV. Comments

The Commission received three comment letters in response to its notice of the proposed amendments.[9] In its October letter, the CBOE supported the amendments concerning the admission of the CBOE as a participant to each Plan, but suggested changes to the revenue-sharing amendments. It stated that while, it is prepared to accept the revenue sharing amendments at this time, it suggested that the amendments be separated from the proposal to admit

[1] *See* Securities Exchange Act Release No. 28556 (October 19, 1990), 55 FR 43233.

[2] 17 CFR 240.11Aa3–1(b) (1).

[3] 17 CFR 240.11Ac1–1(b) (1).

[4] This amendment was included in response to CBOE's proposal to trade "SuperShares," which is currently being reviewed by the Commission. *See* Securities Exchange Act Release No. 28132 (June 19, 1990), 55 FR 26038.

[5] The Plan does not address this issue.

[6] Testing for the systems changes is scheduled to take place on February 2, 1991. The CTA noted that the CBOE's application for participation was submitted during the final stages of a multi-phase program to upgrade CTS to a standalone system and that work on an interface between CBOE and CTS could not commence until that upgrade was completed.

[7] The Commission today issued a letter to the CBOE providing it with the necessary temporary exemptions to enable the CBOE to disseminate transaction and quotation data with a CSE identifier. *See* letter from Kathyrn V. Natale, Assistant Director, SEC, to Nancy R. Crossman, General Counsel and First Vice President, CBOE, dated January 22, 1991.

[8] Because, under this arrangement, quotations originated and transactions effected on the CBOE will be disseminated with a CSE market identifier, the CBOE requested certain exemptions from Rules 11Aa3–1 and 11Ac1–1. *See* letter from Kathryn Natale, Assistant Director, SEC, to Nancy R. Crossman, General Counsel and First Vice President, CBOE, dated January 22, 1991.

[9] *See* letters from Nancy R. Crossman, General Counsel and First Vice President, CBOE, to Jonathan G. Katz, Secretary, SEC, dated October 31, 1990 ("October Letter") and January 10, 1990; and letter from Donald J. Solodar, Executive Vice President, New York Stock Exchange, to Jonathan G. Katz, Secretary, SEC, dated November 26, 1990 ("NYSE Letter").

CBOE as a participant so that the Commission may approve the admission amendments while it further reviews the revenue sharing amendments. CBOE stated that it could accept the revenue sharing amendments as long as they extend only to Eligible Securities that are, in fact, exclusively traded. It is the CBOE's concern, however, that the amendments provide for a much broader exclusion from revenue sharing. CBOE believes that the amendments exclude from the Annual Share calculation last sale prices on any security that is the subject of a contractual relationship that grants a participant either the exclusive right to trade the security or the discretion to determine which other participants may trade the security, regardless of whether the securities are exclusively traded. The CBOE argues that this is different from the concept that CTA had presented before, and now allows a security to be excluded from revenue sharing even though it is actively traded in the markets of several or all of the participants, because of the existence of an exclusive contractual relationship.[10] The CBOE stated that it would not object to excluding the security from revenue sharing while it is exclusively traded, so long as it is taken into account for revenue sharing purposes as soon as competing trading begins.[11]

The New York Stock Exchange ("NYSE") responded to CBOE's comments by disagreeing with CBOE 's request that the Commission split the filing and consider CBOE's admission separately from the amendments to the revenue sharing provisions. The NYSE believes that the two aspects of the amendments together achieve the participants' goal of providing for the admittance of CBOE as a CTA participant on fair and reasonable terms. The NYSE further believes that it would be inappropriate for the Commission to use its broad authority under Rule 11Aa3–2 to approve National Market System plan amendments with such changes as it sees fit in these circumstances.

Instead, the NYSE requested that the Commission disapprove CBOE's proposal to trade SuperShares, support the participants' interpretation of the Plans on exclusively traded securities and request that the CTA participants withdraw the amendments as superfluous.[12] The NYSE letter characterized CBOE's SuperShares as "monopoly securities" and stated that to allow revenue sharing for this product would contravene the "basic purpose of the Plans: To foster competition (multiple trading) through consolidated data dissemination."[13] It maintained, however, that should CBOE decide to begin trading equities with a security other than an exclusively traded security, the revenue sharing amendment would have no effect.[14]

On January 10, 1991, CBOE submitted a second comment letter stating that it continues to believe that its suggestions were meritorious but withdrew its comments on the revenue sharing amendments.[15] Further, in the interest of obtaining effectiveness of CBOE's admission as a participant to the Plans, it urged the Commission to approve the amendments as filed as promptly as possible.

V. Discussion

The Commission has determined to approve the CTA/CQ Plans amendments because the Commission believes implementation of the amendments is consistent with section 11A[16] of the Act and Rule 11Aa3–2 thereunder. Section 11A(a)(1) states the general principle that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the wide spread availability of trade and quote information to broker-dealers and investors. In addition, section 11A sets forth the goal of assuring fair competition among exchanges as well as the linking of all markets for qualified securities through data processing and communication facilities. The CTA and CQ Plans further these goals by providing vendors of securities information, and through them broker-dealers and investors, with a consolidated data stream of securities information. The inclusion of CBOE as a participant in the CTA/CQ Plans will not only enhance fair competition among exchange markets but will be in the public interest and help further the maintenance of fair and orderly markets by assuring the availability to brokers, dealers and investors of quotations for and transactions in securities traded on the CBOE.

A separate question is whether the proposed revenue sharing provision is consistent with the Act. The Commission finds it appropriate to approve the amendments to the revenue sharing provisions in the CTA/CQ Plans. Rule 11Aa3–2(c)(2) under the Act requires that the Commission approve an amendment to an effective National Market System plan if it finds that such amendment is necessary or appropriate in the public interest, the maintenance of fair and orderly markets, or otherwise in furtherance of the purposes of the Act. In making such a determination the Commission must examine section 11A of the Act and Rules 11Aa3–1, 11Aa3–2 and 11Ac1–1, promulgated thereunder. Neither that section nor the rules, however, shed much light on what specific standards should be applied in reviewing revenue sharing provisions in National Market System plans.[17] The Commission therefore believes it is relevant to evaluate whether the fees have been "equitably allocated."[18]

The participants have long recognized the benefits of disseminating market data through CTA facilities, even on those securities that are not eligible for counting towards revenue sharing, by permitting use of the System to disseminate data on a concurrent use basis. Securities that are reported under these provisions of the Plan are referred to as "local issues" and many of them are traded by only one participant. The participants seek to apply the same treatment to any product that is subject to an agreement or other arrangement that grants a participant the exclusive right to trade the security or discretion as to which market may be permitted to trade a security. The Commission believes that this is a valid judgment for the participants to make.

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[10] The CBOE maintains that this could arise if one or more other participants were to trade the Eligible Security notwithstanding an exclusive contractual relationship that might exist. Under these circumstances, the CBOE believes there is not reason to exclude the Eligible Security from the revenue sharing computation.

[11] CBOE Letter at 3.

[12] *See* letter from Donald J. Solodar, Executive Vice President, NYSE, to Jonathan G. Katz, Secretary, SEC, dated November 20, 1990.

[13] *Id.* at 2.

[14] On November 6, the CTA and CQ Plan participants made a determination that SuperShares are Eligible Securities, contingent upon the Plan amendments becoming effective as filed. *See* NYSE letter, n.3.

[15] *See* letter from Nancy R. Crossman, General Counsel and First Vice President, CBOE, To Jonathan G. Katz, Secretary, SEC, dated January 10, 1991.

[16] 15 U.S.C. 78k–1 (1982).

[17] In fact, section 11A does not address revenue or fee issues and the references to revenue issues in the rules are general and not particularly useful in this context. Rule 11Aa3–1 merely provides that "nothing should preclude * * * any exchange or association, separately or jointly, * * * from imposing reasonable and equitable charges * * *." Rule 11Ac1–1 does not address revenue issues. Finally, while Rule 11Aa3–2 requires that any National Market System plan or amendment submitted to the Commission include provisions to how revenues are to be allocated, it does not provide specific guidance as to how to evaluate such provisions under the Act.

[18] In reaching its conclusion, the Commission also considered other sections of the Act that address revenue issues, such as sections 15A(b)(5) and 6(b)(4), which also espouse the principle of equitable allocation of reasonable dues and fees applicable to self-regulatory organizations.

The Commission has a strong interest in assuring that market data is widely available to any interested recipient and use of the CTA/CQ facilities for disseminating market data on CBOE's products appears to be an efficient means of distributing the data to subscribers. On the other hand, an exclusive trading agreement prevents markets from competing with one another in trading a product.[19] Accordingly, the Commission finds that it is equitable for the participants to determine to make the CTA/CQ facilities available to disseminate data but not share revenue where such revenue is based on each participant's proportionate share of the trading volume in each Eligible Security reported through CTA/CQ facilities.[20]

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposed amendments to the CTA and CQ Plans are consistent with the Act, particularly section 11A(a)(1) and Rule 11Aa3–2, with respect to the CQ Plan, and, additionally, with respect to the CTA Plan, the Commission finds that the amendments are also consistent with Rule 11Aa3–1.

It is therefore ordered, pursuant to section 11A of the Act, that the amendments to the CTA and CQ Plans be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a)(27).

[19] The amendments to the revenue sharing provisions apply to any security that is subject to an exclusivity agreement. CBOE questioned whether it was appropriate to apply the amended provisions only to securities subject to such an agreement that are actually not multiply traded. While the Commission understands the logic behind this argument, principally, that only securities over which a single market actually has a monopoly should be excluded from revenue sharing, the Commission can find no good policy reason to reward a market with an exclusive arrangement of the kind discussed here. Should a market entirely waive an exclusivity agreement with respect to a particular security, the Commission expects that the revenue procedures would be applicable.

[20] In response to the CBOE's comment letter, the NYSE requested that the Commission reject the CBOE's SuperShares filing; support the CTA participants' interpretation of the Plan as inapplicable to exclusively traded securities; and, thus, request that the participants withdraw the amendment to the revenue sharing provisions of the Plan as superfluous. First, the CBOE's proposal to provide trading facilities for SuperShares is the subject of a separate Commission proceeding and the Commission will not consider the merits of that filing in this proceeding. Second, for the reasons discussed above, the Commission believes that the participants have crafted a reasonable approach to the issue of exclusively traded securities and thus does not agree with the NYSE that the Plan should not be applicable to such securities, if approved for trading by the Commission.

Dated: January 22, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–1922 Filed 1–25–91; 8:45 am]

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[Release No. 34–28807; File No. SR–CBOE–90–06]

Self-Regulatory Organizations; Order Granting Partial Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Delayed Trade Match Submission Fees

On June 27, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to charge fees for the delayed submission of trade date by members.[3] The proposed rule change was published for comment in Securities Exchange Act Release No. 28308 (August 3, 1990), 55 FR 32513. No comment letters were received on the proposed rule change.

I. Description of the Proposal

The CBOE proposes to add new Exchange Rules 2.25, 2.30, 6.58, 19.50, 19.51, and 19.52 to charge fees for the delayed submission of trade information related to in-person market maker trades for trade match purposes. In general, under the proposal, market makers and their clearing firms will be charged an additional fee when they submit trade information for at least a certain specified percentage of their transactions two hours or more after the time of execution. The fee will apply only to market maker trades executed in person.

The Exchange performs certain trade matching services subsequent to the execution of a trade on the Exchange. In particular, the Exchange matches the trade information data recorded by the purchasing member with the information recorded by the selling member for each transaction executed on the Exchange. Clearing members are advised of transactions for which matching buy and sell data has not been submitted. After allowing the relevant clearing members to submit corrections or changes, the matched transaction data is sent by the CBOE to the Options Clearing Corporation ("OCC") for clearance and settlement. The Exchange currently charges separate transaction and trade match fees for each contract bought or sold on the Exchange.

The trade matching process at the Exchange traditionally has been performed by making computer runs in the evening hours after trading for the day has ceased. In April 1990, however, the Exchange instituted an intraday trade matching service on an Exchange-wide basis. As a result, the Exchange is now making data comparison computer runs during each trading day instead of starting that process after the close of trading. Intraday trade matching allows quicker and more accurate trade comparison and reduces Exchange costs and personnel requirements.

With an intraday trade matching system, members who submit transaction data more than two hours after those trades occur create more work and expenses for the Exchange and defeat the purpose of the system. Late trade information submission creates additional outtrades, which result in longer and more numerous outtrade lists produced by the Exchange. Moreover, intraday trade-checking sessions take more time and are less productive to the Exchange and its members when trades are reported late. In addition, the Exchange's ability to monitor clearing firm submissions to detect financial problems is compromised if clearing firms are not making timely submissions of trade information. Finally, the Exchange must hire additional staff and incur increased expenses to handle the problems mentioned above.

Accordingly, the proposal provides that any market-maker who fails to submit transaction information for at least a stated percentage of his in-person trades for a given day in two hours or less after the time of execution for the respective transactions will be charged in additional transaction fee ($.02 per contract).[4] Specifically, upon

[1] 15 U.S.C. 78s(b)(1) (1984).

[2] 17 CFR 240.19b-4 (1988).

[3] The proposal was originally submitted under section 19(b)(3)(A) of the Act for immediate effectiveness. On July 24, 1990, the CBOE filed a letter with the Commission requesting that the filing be considered under section 19(b)(2) of the Act, which provides for notice and comment of the proposal prior to Commission consideration. See letter of Howard L. Kramer, Assistant Director, Division of Market Regulation, Commission, from James E. Hopkinson, Associate General Counsel, CBOE, dated July 24, 1990.

[4] Proposed Rule 6.58 prescribes the form and manner in which trade information shall be submitted to the Exchange. In general, trade information will be considered to have been received by the Exchange as of the time electronically recorded by the Exchange computer system when the trade information has been entered into an electronic file for processing.

the effectiveness of the proposal, 60% of a market maker's trades executed in person must be submitted in a timely manner to avoid the imposition of the fee.[5] Over the following six months, the percentage of trades that must be submitted on a timely basis will be gradually increased to 80%.

In addition, the proposal provides that any clearing member which fails to submit trade information for at least a stated percentage of all in-person market maker trades cleared by such clearing member on a given day in two hours or less after the respective times of execution of such transactions shall be charged an additional trade match fee ($.02 per contract) for such day. As with the late submission fee imposed on market makers, initially, 60% of the number of in-person market maker trades cleared by a clearing member must be submitted in a timely manner.[6] Thereafter, the percentage of trades that must be submitted within two hours increases to 80% within six months.

The proposal provides several exceptions to the delayed submission fee. First, a market maker will be charged only 50% of any charge it would otherwise incur under the proposal when the clearing member who clears trades for the market maker fails to submit the required trade information in two hours or less for a stated percentage of all in-person market maker trades cleared by the clearing member. Initially, the 50% fee reduction for a market maker will be triggered if his clearing firm fails to submit timely trade information for 45% of its in-person market maker trades. Eventually, the proposal provides that the percentage will be raised to 55% within six months.

Second, the proposal excepts a market maker and its clearing firm from the additional fee when the clearing member is prevented from making timely submissions due to extenuating circumstances beyond the control of the clearing member. Such extenuating circumstances include, among other things, Exchange error or system failure, a hurricane, lightning, or other force majeure events which directly cause the inability to submit data, and incidents created by outside parties, which incidents are reported to the local law enforcement or other appropriate authorities. For the exception to apply, the extenuating circumstance must remain in existence for at least thirty continuous minutes or for at least sixty intermittent minutes during a given day.[7] The proposal also lists several examples of non-extenuating circumstances which will not result in an exception from the fee for a market maker or its clearing firm.[8]

The proposal also allows the Exchange to suspend application of the fee under unusual circumstances which will affect or have affected the ability of a significant number of market makers and/or clearing members of submit trade information to the Exchange on a timely basis. The suspension must be in writing and state the reasons therefore. The suspension, which may be retroactive, may not suspend the fee for more than seven calendar days at one time, although the Exchange may subsequently extend the suspension for up to an additional seven day period.

Finally, the proposal establishes a verification process by which a market maker or clearing member incurring a fee may have the amount charged verified by the Exchange. A member will have at least fifteen days after billing to request verification of the charge. A member dissatisfied with the verification may file an appeal through the Exchange's regular appeal process. However, in making an appeal, the proposal provides that a member may not raise facts and circumstances regarding the failure of a market maker to turn in their trading cards or tickets to their clearing member on a timely basis or the failure of a clearing member to pick up or otherwise collect market maker trading cards or tickets on a timely basis. In addition, the market maker may not raise the failure of the clearing member to efficiently process and submit to the exchange the transaction information contained on market maker trading cards or tickets. The Exchange has proposed to exclude these defenses to avoid the costs and time involved with determining who caused the delayed submission.

II. CBOE's Basis for the Proposal

The Exchange believes that the proposed rule change will result in charges which are equitably allocated among the CBOE membership and that the amounts charged will be reasonable, especially in light of the additional burden caused by market makers and clearing firms who choose to submit trade information on a delayed basis.[9] In addition, the Exchange believes the proposal will encourage timely submission of trade information data, thus leading to greater realization of the benefits offered by intraday trade matching. Furthermore, the Exchange believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the Exchange believes the proposal is consistent with sections 6(b)(4) and (5) of the Act, which provide, among other things, that the rules of the Exchange are to provide for the equitable allocation of reasonable fees among its members and to be designed to foster cooperation and coordination with persons engaged in clearing transactions in securities.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6(b)(4) and (5)

[5] The fee will be $.02 per contract for the number of contracts determined by multiplying the following figures:

(1) The number of in-person market maker trades of the market maker for which trade information was submitted more than two hours after the respective times of execution divided by the total number of in-person market maker trades of the market maker for which trade information was submitted for such day.

(2) The total number of contracts comprising the in-person market maker trades executed by the market maker during such day.

[6] The fee will be two cents per contract for the number of contracts determined by subtracting (2) from (1) and multiplying the remainder by (3):

(1) The minimum timely trade submission percentage (*i.e.*, 60% upon effectiveness of the proposal).

(2) The number of in-person trades cleared by the clearning member for which trade information was submitted in two hours or less after the respective times of execution divided by the total number of in-person market maker trades cleared by the clearing member for which trade information was submitted for such day.

(3) The total number of contracts comprising the in-person market maker trades cleared by the clearing member during the day.

[7] In addition, the proposal provides that if the circumstances are attributable to a problem created by the Exchange and relate to fewer than seven specific clearing members, the time period(s) for determining whether the thirty or sixty minute minimum periods have occurred will commence for a given clearing member at the time when that clearing member notifies the Exchange's trade processing window personnel that a problem exists. The time the Exchange will be notified is based on the time recorded by the trade processing window personnel receiving such notice. However, if Exchange personnel are already aware of such problem, the time period(s) will commence at the time when Exchange personnel became so aware.

[8] Non-extenuating circumstances include, among others: Inclement weather conditions; errors by messengers; electronic queues, waiting lines, or busy telephone signals; power failures, unless such failures were caused by identifiable outside non-related parties; breakdowns or problems associated with a clearing member's equipment or software, including those created by power outages.

[9] For example, if the proposal had been in effect during May 1990, the Exchange states that 52% of all market makers would have incurred no fee or total fees of less than $25, 86% of all market makers would have incurred no fee or total fees of less than $100, and the highest total fee of any market maker would have been $1,055. In addition, 22 clearing firms would have incurred fees which averaged $1,852 and the highest total fee would have been $6,596.

and section 17A(1). Specifically, the Commission believes that the proposal will encourage market makers and their clearing members to make timely submissions of trade information, which will foster more efficient clearing of options transactions. In addition, the Commission believes that the proposal will equitably allocate to late-submitting members the extra processing costs incurred by the CBOE because of late submission of trade information.

Untimely submission of trade information by members causes higher costs to both the Exchange and its members and compromises the effectiveness of intraday trade matching by delaying the intraday trade matching process. The Exchange makes a comparison run of trade information several times a day. If the Exchange finds one side of a trade but not the other it will produce an outtrade report for that trade. The Exchange produces listings of outtrades several times during the day. When market makers and clearing members fail to submit a large percentage of trade data on a timely basis the outtrade reports become extensive and the information value of such reports diminishes.[10] In an effort to provide more meaningful data to the clearing firms, the Exchange now runs additional listings which are designed to exclude many of the outtrades which arise because one side has not submitted timely trade information. In addition, late trade information submission makes it more difficult for the Exchange to monitor clearing firm submissions to detect firms which may be experiencing problems.

The Commission believes that the proposal will result in a higher percentage of trade information submitted to the Exchange on a timely basis. In turn, this will help increase the effectiveness of the Exchange's intraday trade matching system by reducing the length of its outtrade reports and the need for additional reports which do not include those outtrades due to delayed submission of trade information. Timely submisison of trade information will also produce other benefits to the Exchange and its members, such as the quicker resolution of outtrades, reducing the number of nighttime Exchange and member personnel, reducing the number of unmatched trades and greater integrity of the trade matching and clearing process. Finally, the Exchange will be able to monitor its members more effectively for any problems which might disrupt the clearance and settlement process.

The Commission believes that the proposed fee will be equitably allocated among Exchange members.[11] The separate transaction and trade match fees that the Exchange currently charges for each contract bought or sold on the Exchange does not cover the additional effort and expense necessary to produce extra lengthy outtrade reports and additional outtrade reports that do not include outtrades due to one-sided trade information submissions. Nor does the fee account for the additional nighttime Exchange personnel that are needed to process the late submissions. The proposal will assess a fee on only those members who submit delayed trade information, which fees are directly related to the extra Exchange services and expenses that are devoted to incorporate such delayed information into the trade matching process. Members who meet the minimum timely submission percentages and who, therefore, are not the catalyst for additional Exchange services will not be charged the additional fee.

The Commission believes that it is necessary for the Exchange to charge both the market maker and its clearing member for delayed submissions. If the Exchange were to only charge the market maker, the clearing member would be able to delay trade information submission and receive the additional Exchange services at the cost of the market makers for whom it clears. On the other hand, if the Exchange were to only charge the clearing member, market makers would have no cost-saving incentive to submit quickly trade information to their clearing members. Charging both market makers and their clearing members for the extra services gives each group a cost-based reason for submitting trade information on a timely basis.

Finally, although the fee is not a disciplinary sanction, the CBOE has still chosen to provide procedures for members assessed a fee to contest or appeal any fees imposed. In particular, a member may seek verification of fees charged by the Exchange. If the member is not satisfied with the verification of fees, he may make an appeal via a hearing before a panel of three or more persons, with an opportunity to cross-examine witnesses. A decision by the panel may be appealed to the Board of Directors of the Exchange. These procedures are reasonably designed and afford a member assessed a fee the opportunity to challenge the veracity of the assessments.

The intraday trade match system is a substantial improvement and modification to the Exchange's post trade processing system, and, therefore, requires the Exchange to submit a separate filing with the Commission under section 19(b)(1) of the Act. Until the intraday trade match system has been filed with and approved by the Commission, the present proposal cannot be permanently approved. It is the Commission's understanding that the Exchange is preparing to file shortly the rules, procedures and operational specifications governing the intraday trade match system.[12] Therefore, in order to provide the Exchange time to prepare and file the intraday trade match system and the Commission time to review the proposal, while at the same time allowing the Exchange to begin charging fees to improve the effectiveness of the trade matching system, the Commission is approving the proposal for a period of six months.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR-CBOE-90-06) is approved for a period of six months from the date of this order.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 22, 1991.

Margaret H. McFarland,

Deputy Secretary.

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[10] The purpose of an outtrade report is to inform members of trades in which the trade information submitted does not match or where only one side of a trade has submitted information. A member who receives an outtrade report will then compare the report to its own records to reconcile any difference in the trade information or to submit trade information that has not previously been submitted. The inclusion of outtrades that are caused solely by delayed submission of trade data greatly lengthens the outtrade report and makes it difficult to determine which outtrades are "true" outtrades.

[11] *See, supra* note 9.

[12] *See* letter from James E. Hopkinson, Associate General Counsel, CBOE, to Joseph B. McDonald, Jr., Attorney, Commission, dated January 21, 1991.

[13] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-28806; File No. SR-MBSCC-90-02]

Self-Regulatory Organizations; The MBS Clearing Corporation; Order Approving a Proposed Rule Change Relating to Settlement Balance Order Market Differential Payments

January 22, 1991

I. Introduction

On March 5, 1990, the MBS Clearing Corporation ("MBSCC"), filed a proposed rule change (SR-MBSCC-90-2) with the Securities and Exchange Commission ("Commission") pursuant

to section 19(b)(1) of the Securities Exchange Act of 1934.[1] MBSCC amended its proposal on August 21, 1990. Notice of the proposal was published in the **Federal Register** on September 26, 1990.[2] No comments were received. As discussed below, the Commission is approving MBSCC'S proposal.

II. Description

MBSCC proposes several changes which are designed to reduce significantly liquidity concerns which might arise due to a participant's failure to pay its Settlement Balance Order Market Differential ("SBOMD").[3] The first change revises MBSCC's form letter of credit to make it clear that an issuing bank will honor drafts in accordance with MBSCC's instructions by 4:30 p.m. (Eastern Time) on the day of presentation, notwithstanding any contrary provision under commercial law.[4]

A second change involves the acceleration by one business day of the date that participants are required to make SBOMD payments. Participants will now be required to pay MBSCC on the day before the settlement date, rather than on settlement date. MBSCC, however, will continue to distribute SBOMD payments to receiving participants on settlement date.

MBSCC will invest all SBOMD payments received overnight. Investment income, less handling costs, will be rebated to paying participants. Under MBSCC's current rules, MBSCC may invest cash in, among other investments, U.S. government securities, certificates of deposit or cash funds, in accordance with an investment policy approved by MBSCC's Board of Directors.

Finally, MBSCC proposes to impose new penalty fees on those participants who fail to pay SBOMD obligations in a timely manner. Under the new penalty fee, participants who fail to pay the SBOMD by the close of the business day will be subject to a penalty fee of 300 basis points over the cost of funds, with a $1,000 minimum fee. Participants will also continue to remain obligated to reimburse MBSCC for the cost of overnight funds financing, separate from the penalty fee.

III. MBSCC's Rationale

MBSCC believes that its proposal is consistent with section 17A of the Act because it will promote the prompt and accurate clearance and settlement of transactions in mortgage-backed securities and the safeguarding of funds and securities for which MBSCC is responsible.

IV. Discussion

Section 17A of the Act provides that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions.[5] The Commission believes that MBSCC's proposal is consistent with this objective.

The Commission believes that MBSCC's proposal will promote the prompt and accurate clearance and settlement of securities transactions by enhancing MBSCC's ability to fund end-of-day settlement in the event of participant default. Under MBSCC's current rules and procedures, MBSCC calculates the SBOMD for each participant, collects SBOMD debits by 12 p.m. on the settlement date via Fedwire transfer and makes corresponding payments to participants with SBOMD credits on the same day by 3 p.m. via Fedwire transfer.[6]

Although this procedure has worked reasonably well, the Commission believes that the three hour window for funds turnaround may not provide MBSCC with sufficient time to marshall and liquidate the collateral posted by a defaulting participant and pay participants with SBOMD credits in a timely manner. In addition, market conditions may make it difficult for MBSCC to liquidate collateral in a timely manner without accepting an unfavorable price for the collateral.

The Commission believes that MBSCC's proposal will alleviate these concerns to some degree. First, by requiring that letter of credit banks make funds immediately available, notwithstanding any applicable provisions of commercial law, MBSCC has the certainty of knowing that the collateral posted by a defaulting participant will be available on short notice to satisfy the default. Second, by requiring participants to pay SBOMD debits on the day before settlement date, MBSCC will have earlier notice of participant default. This will provide MBSCC with additional time to liquidate a defaulting participant's collateral in a prudent manner or secure alternative financing, if necessary. Third, in the unlikely event that MBSCC can not satisfy the default in time, and must reduce payments to participants with SBOMD credits, MBSCC will provide such participants with earlier notice of such reductions, thus providing them more time to obtain additional financing. Accordingly, the Commission believes that MBSCC's proposal will promote the prompt and accurate clearance and settlement of transactions in mortgage-backed securities.[7]

The Commission also believes that MBSCC's proposal to charge penalty fees for late SBOMD payments is consistent with the Act and, in particular, with section 17A(b)(3)(G).[8] The Commission believes that the proposed penalties are well suited to encourage such timely payments. Late payment of SBOMD debits by participants increases the risk of loss to MBSCC and its participants because of the increased risk of default or insolvency by the delinquent participant until the debit balance is paid. The Commission believes it important that participants make timely payment of SBOMD debits for this reason and that the proposal will encourage such a result.

In the event that a participant is assessed a penalty for late payment of a SBOMD debit, MBSCC's rules, consistent with section 17A(b)(3)(H),[9]

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[1] 15 U.S.C. 78s(b)(1) (1990).

[2] *See* Securities Exchange Act Release No. 28445 (September 17, 1990), 55 FR 39339.

[3] In general, a participant's SBOMD is the difference between the average price of its open contracts relating to a particular class of security in MBSCC's settlement balance order ("SBO") system and the average price of all participants' open contracts in the SBO system for that security.

[4] Under the provisions of the Uniform Commercial Code as enacted in most states, the issuing bank may defer honor of a payment request until the close of business on the third banking day following receipt of the document. *See, e.g.*, Ill. Rev. Stat. (1989) ch. 26, par. 5–112(1)(a).

[5] 15 U.S.C. 78q–1(b)(3)(F) (1990).

[6] *See* MBSCC Procedures, section VII.

[7] To assist the Commission in monitoring the effect of the proposal, MBSCC has represented that it will report, on a quarterly basis, the following information: (1) The aggregate SBOMD debit owed by MBSCC's participants on any settlement date within a particular month; (2) the percentage of such SBOMD debits paid on the day before the settlement date; (3) the percentage of such settlement debits that are not paid on the day before the settlement date; and (4) the identify of each participant that failed to pay its SBOMD debit in a timely manner, the dollar amount of each such participant's SBOMD debit, and the reason for such late payment. *See* letter from Jeff Lewis, Associate Counsel, MBSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission, dated January 17, 1991.

[8] Section 17A(b)(3)(G) of the Act directs a clearing agency's rules to provide that its participants be appropriately disciplined for violation of any provision of the clearing agency's rules by expulsion, suspension, limitation of activities, functions and operations, fine, censure, or any other fitting sanction.

[9] Section 17(b)(3)(H) of the Act directs that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants, the denial of participation to any person seeking participation therein, and the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency.

provide participants with an opportunity to appeal the assessment of the proposed penalty, and to explain any mitigating circumstances. The penalty will not become effective until the period for appeal has lapsed and will be stayed during the pendency of the appeal. Appeals will be considered by a panel composed of three members of MBSCC's Board of Directors. Decisions of the panel are reviewable by the Board of Directors.[10] The Commission believes that MBSCC's appeal process will provide participants with a fair opportunity to be heard.

V. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with section 17A.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–MBSCC–90–02) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–1927 Filed 1–25–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–28803; File No. SR–MSTC–90–09]

Self-Regulatory Organizations; Midwest Securities Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Revision of Its Service Fees

January 18, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934,[1] notice hereby is given that on December 27, 1990, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR–MSTC–90–09) as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization ("SRO") to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is MSTC's revised fee schedule.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to make selective revisions to MSTC's service fee schedule. The revisions are based on MSTC management's review of operating volumes for 1990, projected volumes for 1991, and related costs. The revisions are also designed to align more accurately MSTC's associated revenues and expenses. The majority of the line item fees remain unchanged for 1991. The proposed changes reflect decreases in fees realized due to economies of scale, multiple event processing, and increased levels of automation. Increases in fees result from activities related to the physical handling of securities or single event processing within given assets.

Included in the proposed rule change is a summary highlight of those line items that have been adjusted. Items not appearing on the summary remain unchanged. Also included is a complete schedule of charges. The revisions of the MSTC service fee schedule are consistent with section 17A(b)(3)(D) of the Act[2] in that they provide for the equitable allocation of reasonable dues, fees and other charges among participants.

B. SRO's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

C. SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change is to take effect pursuant to section 19(b)(3)(A)(ii) of the Act[3] and subparagraph (e)(2) of Rule 19b–4 under the Act[4] in that it establishes or changes a due, fee, or other charge imposed by the MSTC. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for that protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MSTC. All submissions should refer to File Number SR–MSTC–90–09 and should be submitted by February 19, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

MIDWEST SECURITIES TRUST COMPANY
1991 PRICE REVISIONS

Service	1990 Fee
Account Maintenance	
First 2 Accounts: Total Fee All Services.	$475.00/Acct.

[10] *See* MBSCC Rules, Article III, Rules 3 and 7.

[1] 15 U.S.C. 78s(b).

[2] 15 U.S.C. 78q–1(b)(3)(D).

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4.

[5] 17 CFR 200.30–3(a)(12).

MIDWEST SECURITIES TRUST COMPANY
1991 PRICE REVISIONS—Continued

Service	1990 Fee
All Accounts Over 2: Total Fee All Services.	$200.00/Acct.
Safekeeping Fees	
Per 100(Shares or $40,000 Face Value (charge/$40,000 Face Value = charge/1000 Shares):	
0–01 million shs.($60.00 min.)*.	$0.08000.
1–15 million shs.	$0.07300.
15–50 million shs.	$0.05200.
50–200 million shs.	$0.01300.
200–300 million shs.	$0.00652.
300+ million shs.	$0.00050
* Specialist, Market Maker & Trading Accounts are not subject to the minimum.	
Thin Issue Surcharge	
Equity (5 Participants or Less)	$0.22.
Corporate Debt (2 Participants or Less).	$0.42.
Registered Municipal Bonds (2 Participants or Less).	$0.42.
Regular Deposits	
11:30 a.m.–4:00 p.m. (Next Day Credit).	$1.50.
7:30 a.m.–11:00 a.m. (Same Day Credit).	$2.00.
11:00 a.m.–11:30 a.m. (Same Day Credit).	$15.00.
Bearer Deposits	
All Deposits	$5.00.
Bearer Reclaims	$3.00.
Legal Deposits	
Full Service Per Month:	
1–1000 items	$5.00+
(plus deposit fees)	$1.50.
1001–2000 items	$3.00+
(plus deposit fees)	$1.50.
Over 2000 items*	$3.00+
(plus deposit fees)	$1.50.
* All 2000 items charged at this rate.	
Transfer Withdrawal	
Hard Copy Input	$4.00 per item.
Tape Input, FTS, or On Line	$1.50 per item.
Withdrawals	
Registered Street Requests	$10.00.
Bearer Street Requests	$10.00.
Bearer Value Over 50,000	$0.05/1000.
Dividends & Interest	
Cash Dividends	$1.40.
Stock Dividends	$11.00.
Corporate Bond Interest Credit	$1.60.
Registered Muni Bond Interest Credit.	$1.60.
Bearer Muni Bond Interest Credit.	$3.50.
Dividend Reinvestment	$20.00.
Reorganizations	
Full Call—Registered & Bearer *.	$25.00.
Partial Call—Registered & Bearer *.	$28.00.
Maturities—Registered & Bearer *.	$20.00.
Non-Mandatory Reorganizations.	$28.00.
Mandatory Reorganizations	$28.00.

MIDWEST SECURITIES TRUST COMPANY
1991 PRICE REVISIONS—Continued

Service	1990 Fee
Unit Swingovers	$06.00.
* Bearer (only) value charge	$00.05/1000
Hard Copy Reports	
Activity, Compressed Net Position, Purchase & Sales Reports, (terminal users).	$0.028/page.
Full Net Position (daily)	$0.025/page.
Full Net Position (weekly)	$3.00/week.
Form Preparation Input	
Form Preparation by MCC/MSTC (Input by telephone request).	$7.00.
Inquiries	
NIDS Only Terminal	$25.00.

	1991 Fee
First 2 Accounts: Total Fee All Services.	$495.00/Acct.
All Accounts Over 2: Total Fee All Services.	No Change.
Per 1000 Shares or $40,000 Face Value (charge/$40,000 Face Value = charge/1000 Shares):	
0–01 million shs. ($50.00 min.) *.	No Change.
1–15 million shs.	$ 0.06900.
15–80 million shs.	$ 0.05000.
80–200 million shs.	$ 0.01300.
200–300 million shs.	No Change.
300+ million shs.	No Change.
* Specialist, Market Maker & Trading Accounts are not subject to the minimum.	
Equity (8 Participants or Less)	$0.22.
Corporate Debt (8 Participants or Less).	$0.22.
Registered Municipal Bonds (2 Participants or Less).	$0.72.
11:30 a.m.–4:00 p.m. (Next Day Credit).	$1.75.
7:30 a.m.–11:00 a.m. (Same Day Credit).	$2.75.
11:00 a.m.–11:30 a.m. (Same Day Credit).	$25.00.
All Deposits	$4.00.
Bearer Reclaims	$20.00.
Full Service Per Month:	
1–500 items—Next Day	$6.50 (no add'l deposit fees).
1–500 items—Same Day	$7.00 (no add'l deposit fees).
Over 500 items—Next Day *.	$4.50 (no add'l deposit fees).
Over 500 items—Same Day *.	$5.00 (no add'l deposit fees).
* All items charged at this rate.	
Hard Copy Input	No Change.
Tape Input, FTS, or On Line	$2.00 per item.
Registered Street Requests	$12.00.
Bearer Street Requests	$12.00.
Bearer Value Over 50,000	$0.05/1000.
Cash Dividends	No Change.
Stock Dividends	$16.00.
Corporate Bond Interest Credit	$1.40.
Registered Muni Bond Interest Credit.	$2.10.
Bearer Muni Bond Interest Credit.	$4.00.
Dividend Reinvestment	$25.00.

MIDWEST SECURITIES TRUST COMPANY
1991 PRICE REVISIONS—Continued

Service	1990 Fee
Full Call—Registered & Bearer *.	$28.00.
Partial Call—Registered & Bearer *.	No Change.
Maturities—Registered & Bearer *.	$28.00.
Non-Mandatory Reorganizations.	$35.00.
Mandatory Reorganizations	No Change.
Unit Swingovers	$11.00.
* Bearer & Registered Muni Bond value charge.	$00.05/1000.
Activity, Compressed Net Position, Purchase & Sales Reports.	$10.00/month each.
(all users) *plus excess pages over 500.	$0.028/page.
* Excluding Specialists, Trading Accounts, and Market Makers.	
Full Net Position (daily)	Included above.
Full Net Position (weekly)	Included above.
Form Preparation by MCC/MSTC (Input by telephone request).	No Change.
Participant Hard Copy Input (Only if available via terminal, except transfers).	$2.00.
Cancellation of Pending Activity	$4.00.
Inquiry of Position, Settlement Figure, and Security Eligibility.	$0.03.
NIDS Only Terminal	$75.00.

[FR Doc. 91–1926 Filed 1–25–91; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–28805; File No. SR–MSE–91–1]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to Initial Listing Requirements

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1991, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to amend its requirements for the initial listing of common or preferred stock by raising the Exchange's current standards

regarding outstanding public shares, net tangible assets, and net earnings. Specifically, the MSE proposes to amend Rule 7A, C, and G of Article XXVIII of the Exchange's Rules of the Board of Governors, by requiring, as a preconditioning to listing, that a company have: 1,000,000 outstanding public shares of stock (currently 250,000 shares); $2,500,000 in net tangible assets (currently $2,000,000); and $250,000 in net earnings (currently $100,000).[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSE believes that, by increasing certain key listing requirements, the integrity of its marketplace will be enhanced, and the public interest will be better protected. The MSE also believes that, in instituting these changes, the Exchange addresses the Commission's concerns regarding the possible effects of Rule 15c2–6, the "Penny Stock" rule,[2] on smaller businesses seeking capital.

In particular, in Release No. 27160 in which the Commission adopted rule 15c2–6, the Commission noted that many small businesses may seek listing on an exchange to avoid the restrictions of Rule 15c2–6.[3] Generally, Rule 15c2–6 regulates and restricts the trading practices of broker-dealers in the recommendation, to persons who are not established customers, of low-priced securities that are not registered on an exchange, nor authorized for quotation on NASDAQ. As such, and since broker-dealer abuses may extend to exchange-traded low-priced securities, the Commission stated its expectation that self-regulatory organizations would develop regulatory initiatives designed to address fraud and manipulation in low-priced securities.

Although the MSE does not propose to place any minimum restrictions on the price at which a company's stock may trade, by implementing these higher listing standards the Exchange believes that only quality, financially sound companies will qualify for listing privileges on the MSE.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicted nor received comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Up to March 4, 1991, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR–MSE–91–1 and should be submitted by February 19, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 18, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–1923 Filed 1–25–91; 8:45 am]

BILLING CODE 8010–01–M

[1] The exact text of the proposed listing requirements was attached to the rule filing as Exhibit A and is available at the MSE and the Commission at the address noted in Item IV below

[2] Rule 15c2–6, which became effective under the Act on January 1, 1990, imposes various sales practice requirements on broker-dealers who recommend purchases of certain low-priced securities to persons who are not established customers. *See* Securities Exchange Act Release No. 27160 (August 22, 1989), 54 FR 35468.

[3] The Commission notes that Rule 15c2–6 exempts from its requirements securities that are registered on a national securities exchange that makes transaction reports available pursuant to Rule 11Aa3–1 under the Act or approved for quotation in the National Association of Securities Dealers Automated Quotation ("NASDAQ") system. 17 CFR 240.15c2–6(c) (1990).

[Release No. 34–28804; File No. SR–MSE–91–5]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to Amendments to the Exchange's Listing Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 10, 1991, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSE proposes to amend its "listing fees," which are set forth in Item 1 of the Exchange's Fees and Assessments schedule and in paragraphs .01 and .02 of Rule 1, Article XXVIII, of the Exchange's Rules of the Board of Governors. Generally, the Exchange proposes to restructure and update the fees associated with listing securities on the MSE. The proposed changes include increases, reductions,

additions, and, where necessary, clarification of existing charges.

The most significant changes involve raising the original listing fee to $10,000 per issue of common stock (currently $5,000 per issue) as well as the fees associated with listing additional shares of stock; reducing the original listing fee for preferred stock and purchase rights plans to $2,500 per issue (currently $5,000 per issue); adding a fee for "name" and "state of incorporation" changes; and clarifying the Fees and Assessments schedule to explicitly reflect all applicable charges associated with listing. The Exchange also will amend the Interpretations and Policies (paragraphs .01 and .02) under Rule 7 of Article XXVIII of the Exchange's Rules to reflect the amended listing fee structure.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The MSE's purpose for amending its listing fees is to make them consistent with the fees charged by other exchanges, and to adequately reflect the costs of providing listing services. While the overall effect of the proposed changes is to increase listing fees, the Exchange believes such increases are necessary to defray the rising costs associated with maintaining listing services and related overhead expenses.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of dues, fees, and other charges among Exchange members and issuers and other persons using the Exchange's facilities.

[1] The exact text of the proposed listing fees was attached to the rule filing as Exhibit A and is available at the MSE and the Commission at the address noted in Item IV below.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR-MSE-91-5 and should be submitted by February 19, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 18, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-1924 Filed 1-25-91; 8:45 am,

BILLING CODE 8010-01-M

[Release No. 34-28802; File No. SR-NYSE-91-02]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to a Rate Decrease of the Odd-Lot Specialist Fee

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 14, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is published this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE, pursuant to Rule 19b-4 of the Act, submitted a proposed rule change to institute a rate decrease affecting the odd-lot fee payable by specialists. The fee will be $0.02 per share rather than the current $0.0336 per share.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the change is to decrease fees in order to provide a more equitable distribution of overall charges among NYSE

constituents and to respond to general market conditions.

(2) *Statutory Basis.* The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–91–02 and should be submitted by February 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 18, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–1862 Filed 1–25–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1325]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Wednesday, February 6, 1991 at 8:30 a.m. at The Pointe in Phoenix, Arizona. Pursuant to section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552B (c)(4), it has been determined the meeting will be closed to the public. Matters relative to privileged commercial information will be discussed. The agenda calls for the discussion of private sector physical security policies, bomb threat statistics, and security programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–1003, phone: 703/204–6185.

Dated: January 14, 1991.

Clark Dittmer,

Director of the Diplomatic Security Service.

[FR Doc. 91–1743 Filed 1–25–91 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD7–91–05]

Public Hearing concerning the Sidney Lanier Bridge across the Brunswick River, at Brunswick, GA

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant, United States Coast Guard, has authorized a public hearing to be held by the Commander, Seventh Coast Guard District, in the City of Brunswick, Glynn County, Georgia. The purpose of the hearing is to give the bridge owner, waterway users, and other interested parties the opportunity to present data, views and comments orally or in writing concerning what alterations are needed to the Sidney Lanier Bridge to provide the vertical and horizontal clearances necessary to provide reasonably free and unobstructed passage for waterborne traffic on the Brunswick River.

DATES: The hearing will be held on Thursday, March 7, 1991, commencing at 7 p.m.

ADDRESSES: The hearing will be held at the Glynn Academy High School, 1001 Mansfield Street, Brunswick, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. John Winslow or Mr. Gary Pruitt, Seventh Coast Guard District, Brickell Plaza Federal Building, 909 Southeast 1st Avenue, Miami, Florida 33131–3050, (305) 536–4103.

SUPPLEMENTARY INFORMATION: Under Title III of the Coast Guard Omnibus Act of 1990 (Pub. L. 101–595, 16 November 1990), Congress deemed the Sidney Lanier Bridge an unreasonable obstruction to navigation, and declared that the Federal Government's share of the cost of altering the Sidney Lanier Bridge shall not exceed 50 percent of such costs.

The hearing will be informal. Representatives from the Coast Guard will preside at the hearing, make a brief opening statement and announce the procedures to be followed at the hearing. Speakers are encouraged to provide written copies of their oral comments to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or mail them to the Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, 909 SE 1st Avenue, Miami, Florida 33131–3050. Written comments will be received through April 7, 1991. Each comment about the navigational clearances proposed for the Sidney Lanier Bridge to meet the needs of waterway traffic on the Brunswick River should include the name and address of the person or organization submitting the comment and state the reasons for the suggested alterations. A transcript of the hearing, as well as written comments received outside of the hearing, will be available for public review at the office of the Seventh Coast Guard District approximately 30 days after the hearing date.

Transcripts of the hearing will be made available for purchase upon request to the court reporting service at the conclusion of the hearing. All comments, whether received in writing or presented orally at the public hearing, will be fully considered before final agency action is taken. (33 U.S.C. 513; 33 CFR 116.20)

Dated: January 16, 1991.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 91-1966 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Meeting on Minimum Operational Performance Standards for Automatic Dependent Surveillance (ADS) (Special Committee 170)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the first meeting of Special Committee 170 to be held February 13-15, 1991, at the Ramada Inn, Jennifer Road, Annapolis, Maryland, 21401, commencing at 9:30 a.m.

The agenda for this meeting is as follows:

(1) Chairman's introductory remarks;

(2) Review of committee Terms of Reference, RTCA Paper No. 409-90/SC170-1 (enclosed);

(3) Review of ICAO Automatic Dependent Surveillance panel activities;

(4) Review of ARINC Airlines Electronic Engineering Committee (AEEC) activities;

(5) Define scope of Minimum Operational Performance Standards (MOPS);

(6) Establish committee work program and schedule;

(7) Other business;

(8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., suite 500, Washington, DC. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time

Issued in Washington, DC, on January 14, 1991.

Steven Zaidman,

Designated Officer.

[FR Doc. 91-1884 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Meeting on Airborne MLS Area Navigation Equipment (Special Committee 171)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice is hereby given for the first meeting of Special Committee 171 on Airborne MLS Area Navigation Equipment to be held February 20-22, 1991, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows:

(1) Introductory remarks;

(2) Review and approve Terms of Reference, RTCA Paper No. 336-90/SC171-1;

(3) Briefing/Technical Presentations;

(4) Committee discussion on extent of problem;

(5) Develop initial work program and a plan for accomplishment;

(6) Assignment of tasks;

(7) Other business;

(8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 16, 1991.

Steven Zaidman,

Designated Officer.

[FR Doc. 91-1885 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

Flight Standards District Office at Dallas, TX; Relocation

Notice is hereby given that on December 15, 1990, the Flight Standards District Office moved to Empire Central Building, 7701 North Stemmons Freeway, suite 300, Dallas, Texas 75247. All services to the general aviation public formerly provided at the previous location will still be provided at the new location. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Forth Worth, TX, on January 16, 1991.

Clyde M. DeHart, Jr.,

Administrator, Southwest Region.

[FR Doc. 91-1836 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: City of Lafayette, Lafayette Parish, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Lafayette, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Hollis, District Engineer, Federal Highway Administration, P.O. Box 3929, 750 Florida Street, Baton Rouge, Louisiana 70821 or Public Hearing and Environmental Engineer, Louisiana Department of Transportation and Development, P.O. Box 94245, Baton Rouge, Louisiana 70804-9245.

SUPPLEMENTARY INFORMATION: An environmental impact statement (EIS) will be prepared on a proposal to improve U.S. Routes 90 and 167 (Evangeline Thruway) in Lafayette, Louisiana. The proposed improvement, called the I-49 Connector, would involve an upgrade of the existing transportation corridor between the Lafayette Regional Airport and just north of the existing I-10/I-49 interchange, a distance of about 5½ miles.

Improvements to the corridor are considered warranted to improve mobility for local traffic and provide a connection to I-49, which currently terminates at I-10 within the urban area Any improvements considered would be adequate to accommodate existing and projected traffic demand. Alternatives under consideration include (1) taking no action; (2) upgrading to a partially controlled access highway; and (3) constructing a fully controlled access highway. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously

expressed or are known to have interest in this proposal. A series of public meetings will be held in Lafayette between January, 1991 and the conclusion of the study. In addition, a public hearing will be held, with public notice given of the time and place of the meetings and hearing. Newsletters mailed periodically will supplement these meetings. The Draft EIS will be available for public and agency review and comment prior to the formal public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Mr. Robert Hollis, District Engineer, Federal Highway Administration or the Louisiana Department of Transportation and Development at the addresses provided on the previous page.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 17, 1991.

Robert E. Hollis,

District Engineer.

[FR Doc. 91-1891 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 90-23-IP-No. 2]

General Motors Corp.; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by General Motors Corporation (GM), of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.101, Federal Motor Vehicle Safety Standard No. 101, "Controls and Displays." The basis of the petition was that the noncompliance was inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on October 5, 1990, and an opportunity afforded for comment (55 FR 40977).

Paragraph S5.3.3(b)(1) of Standard No. 101 specifies that the means used to make controls, gauges, and the identification of these items visible to the driver shall be adjustable, to provide at least two levels of brightness, one of which is barely discernible to a driver who has adapted to dark ambient roadway conditions. GM produced 127 1990 Oldsmobile Eighty-eight Broughams equipped with digital (electronic) instrument clusters which failed to provide at least two levels of illumination.

GM supported its petition for inconsequential noncompliance with the following:

1. The single level of illumination provided in the vehicles is sufficient to allow the instruments to be clearly discernible in bright sunlight.

2. GM has reconfigured a vehicle to exhibit this condition and has determined that the intensity level is not sufficient to distract the driver whose eyes have adjusted to dark ambient conditions. These findings are supported by GM field data.

3. An examination of GM field complaints and warranty information did not indicate any concerns with the light intensity.

4. GM is planning to inform the owners of the affected vehicles about the condition and authorize modification of the illumination control free of charge for any customer who so desires.

One comment was received in response to the notice. Robert F. Schlegel, P.E., who was not persuaded by GM's arguments, recommended denying the petition.

Paragraph S5.3.3(b) establishes a minimum level of performance: at least two levels of illumination, one of which is barely discernible to a driver who has adapted to dark ambient roadway conditions. In practice, most if not all manufacturers provide a control that varies the light level infinitely between a low level and a high one, permitting the driver to choose the quantum of illumination most suited for his or her comfort and immediate driving needs. The single level provided by GM on the nonconforming Oldsmobiles is the maximum level of brightness for which the system is designed on conforming cars. NHTSA believes that this condition could create visibility or glare problems for some drivers at night.

GM sought to convince the agency otherwise, its principal argument being that its test data indicate that the intensity level will not distract a driver whose eyes have adjusted to dark ambient conditions. NHTSA found GM's argument to be an unsupported assertion. The petitioner did not state the number of persons used in its field tests or whether the participants made up an unbiased sample that is statistically representative of the driving population as a whole. NHTSA does not believe that the persons employed in the field tests were representative. In age, they ranged from 29 to 53. This omits the youngest and oldest part of the driving population. Lack of representation is also found in that all participants were of the same general educational and professional background, i.e., engineering personnel, who, if they were GM employees, could likely be biased.

Accordingly, petitioner has not met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is denied. NHTSA notes that the petitioner already plans to inform the relatively few number of owners of the noncompliance and to offer a remedy. The denial will ensure that the campaign adheres to Federal requirements.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

ISSUED: January 22, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-1851 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 91-03; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision to Deny Petitions for Exemption from Low Volume Manufacturers

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Proposed decision to deny petitions for low volume exemption from average fuel economy standards.

SUMMARY: This notice proposes to deny petitions filed by three companies, ASC, Inc., PAS, Inc., and Shelby Automobiles, Inc., each requesting low volume exemption from the generally applicable passenger automobile average fuel economy standards, and seeking establishment of alternative standards for each model year (MY) for which they seek exemption. The passenger automobiles manufactured by ASC, PAS and Shelby each have more than one manufacturer, a major manufacturer, General Motors (GM) or Chrysler, as well as a low volume manufacturer. Moreover, the passenger automobiles at issue are essentially high performance versions of GM or Chrysler cars, and are sold through GM or Chrysler dealers. NHTSA has tentatively concluded that it would be inconsistent with the statutory

scheme to exempt the three petitioners from the generally applicable average fuel economy standards.

DATES: Comments must be received on or before March 29, 1991.

ADDRESSES: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, room 5109, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen P. Wood, Assistant Chief Counsel for Rulemaking, room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Background

In December 1975, Congress enacted the Energy Policy and Conservation Act (EPCA) in response to the energy crisis created by the oil embargo of 1973–74, and to the level of oil imports. Congress included a provision in that Act establishing an automobile fuel economy regulatory program under which standards are established for the corporate average fuel economy (CAFE) of the annual production fleets of passenger automobiles and light trucks. Responsibility for the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of NHTSA.

Compliance with CAFE standards is determined by averaging the fuel economy ratings of the various models produced by each manufacturer, enabling them to produce vehicles with fuel economy below the level of the standard if they produce sufficient numbers of vehicles with fuel economy above the level of the standard. The standards for passenger automobiles for MYs 1987–1990 are: 26 miles per gallon for MYs 1987 and 1988; 26.5 miles per gallon for MY 1989, and 27.5 miles per gallon for MY 1990.

Section 502(c) of the Cost Savings Act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternate standard for the manufacturer at its maximum level. Under the Act, a low volume manufacturer is one that manufactures (worldwide) fewer than 10,000 passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Cost Savings Act to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

The Petitions

ASC

In a submission dated May 24, 1988, ASC petitioned NHTSA for an alternate fuel economy standard for its passenger automobiles for MYs 1989 and 1990. ASC stated that the company had entered into an arrangement for development and production of a limited number of special high performance passenger automobiles based upon an incomplete vehicle to be obtained from General Motors (GM). The automobiles were subsequently identified as the Pontiac Grand Prix STE and Turbo Grand Prix. An alternate standard of 23.0 mpg for both MY 1989 and 1990 was requested. ASC amended this petition in a submission dated October 26, 1989. In that submission, ASC stated that in early 1989, "certain procurement, durability and development problems required changes in engine calibration which resulted in a decrease in the fuel economy for the 1989 model year automobiles." It subsequently requested an alternate standard of 22.5 mpg for MY 1989. ASC continued to request a standard of 23.0 mpg for MY 1990.

PAS

On August 15, 1988, NHTSA received a petition for exemption from generally applicable CAFE standards from PAS. It petitioned for an exemption for a "special production package" of the Pontiac Firebird Trans Am to commemorate its twentieth anniversary. In the petition, PAS stated that it intended to modify the Trans Am by installing Buick 3.8L turbo engines and automatic transmissions manufactured by Hydramatic. It planned production of about 1500 of these vehicles in MY 1989. It requested an exemption from the generally applicable fuel economy standard for MY 1989 but did not request a specific figure as an alternate standard.

Shelby

On June 8, 1987, Shelby petitioned the agency for an exemption from the generally applicable average fuel economy standards for passenger automobiles to be manufactured by Shelby in MYs 1987, 1988, and 1989. By letter dated August 15, 1988, Shelby informed the agency that Shelby manufactured no vehicles in MY 1988 and therefore withdrew its request for an alternate fuel economy standard for the 1988 model year. For MY 1987, Shelby planned to sell its version of the Chrysler GLHS/Charger, and CSX/Shadow, both of which are two door subcompacts, and the Lancer, a four door midsized sedan. For MY 1989, Shelby planned to sell its version of the Chrysler Daytona, both a two door subcompact version and a four wheel drive version, and the CSX/Shadow. For MY 1987, Shelby requested an alternate standard of 24.7 miles per gallon, and for MY 1989, Shelby requested an alternate standard of 20.5 miles per gallon.

Timeliness of Petitions

Under 49 CFR 525.6(b), petitions for low volume exemption must be submitted not later than 24 months before the beginning of the affected model year, unless "good cause" for later filing is shown. Of the three petitions submitted, none was timely for any of the model years for which an exemption was requested. A threshhold issue for the agency to consider is therefore whether the petitioners have shown good cause for filing a late petition. If good cause is not shown, NHTSA rejects petitions for low volume exemption.

ASC's petition for MYs 1989 and 1990 was dated May 24, 1988. It stated that within the past few weeks, it had entered into an arrangement for development and production of a limited number of special high performance passenger automobiles based upon an incomplete vehicle to be obtained from GM. ASC stated that by bringing this special automobile to market in such a brief period of time, it intended to fill an existing gap in U.S. automobile production. ASC argued that the present opportunity for production of a unique U.S. manufactured automobile which incorporated the most advanced technology in turbo-charging and aerodynamic design constitutes good cause for consideration of the petition.

PAS's petition for MY 1989 was submitted on August 15, 1988. That company stated that it apologized for the tardiness of its request as it had only recently entered the limited volume manufacturing business as a direct result of its program with GM. It stated that although the concept of a 3.8L Trans Am was not new, the ability to actually build the cars at its own facility only became sound about six months before. PAS also stated that the preliminary negotiations with GM had begun to take

shape four months before, and sufficient definition to ensure production had just been achieved.

Shelby's petition for model years 1987 and 1989 was submitted on June 8, 1987. Shelby indicated in its petition that it would not have been possible to submit its petition much earlier, since the company was less than 24 months old, and the required information would not have been available prior to the time of filing.

One of the types of situation where NHTSA has previously found good cause for failure to submit a timely petition is where the necessary supporting data for a petition are unavailable until after the due date has passed. ASC's and PAS's petitions indicate that the arrangements for manufacturing the passenger cars at issue were still being formulated until shortly before the petitions were filed, and that there was considerable uncertainty about whether the companies would manufacture any cars for the model years for which they filed a petition. Also, ASC and PAS had not previously manufactured these cars, except, in the case of PAS, as prototypes. NHTSA believes that overall cricumstances shown by ASC and PAS are sufficient to show good cause for late filing of the petitions.

Shelby's petition indicates that it was a new company and that it would have been impossible for it to have met the 24 month requirement. While it is somewhat unclear why Shelby could not have submitted a petition somewhat earlier than it did, NHTSA recognizes the uncertainties faced by Shelby with respect to what vehicles it would produce and for what model years. This uncertainty is illustrated by the fact that Shelby did not manufacture any vehicles for MY 1988 and withdrew its petition for that model year. The agency believes that the overall circumstances shown by Shelby are sufficient to constitute good cause for late filing of its petition.

Issues Raised by Petitions

The passenger automobiles manufactured by ASC, PAS and Shelby each have more than one manufacturer: a major manufacturer (either GM or Chrysler) and a low volume manufacturer. Moreover, the passenger automobiles at issue are essentially high performance versions of GM or Chrysler cars, and are sold through GM or Chrysler dealers. These facts, and the overall relationships between the petitioners and GM or Chrysler, raise the following issues:

(1) Since there is more than one manufacturer of the vehicles in question, is the low volume manufacturer or the major manufacturer considered the manufacturer for CAFE purposes? (If GM or Chrysler is considered to be the manufacturer, the vehicles would be placed in those companies' fleets rather than the fleets of ASC, PAS and/or Shelby.)

(2) To the extent that the low volume manufacturer can be considered the manufacturer for CAFE purposes, is the low volume manufacturer in a control relationship with the major manufacturer? (Under section 503(c) of the Cost Savings Act, fhe autombiles produced by all manufacturers within a control relationship are considered to be manufactured by the same manufacturer. Thus, if the low volume manufacturer is controlled by GM or Chrysler, the major manufacturer's vehicles would be added to those of the low volume manufacturer for purposes of determining the petitioners' satisfaction of the production volume criterion for eligibility for a low volume exemption. Combining these fleets would make ASC, PAS and/or Shelby ineligble for a low volume exemption.)

(3) Assuming that the low volume manufacturer can be considered the manufacturer for CAFE purposes and is not controlled by GM or Chrysler, would it be appropriate under the statute for NHTSA to grant a low volume exemption given the significant involvement by GM and Chrysler in the manufacture of the passenger cars at issue and the nature of the manufacturing operations performed by the petitioners?

In February 1990, NHTSA sent letters to each of the petitioners, as well as to GM and Chrysler, requesting additional information to assist the agency in analyzing these issues. Each of the companies provided a response to the letters.

Each of the issues is addressed below.

I. *Since there is more than one manufacturer of the vehicles in question, is the low volume manufacturer or the major manufacturer considered the manufacturer for CAFE purposes?*

Section 501(8) of the Cost Savings Act defines the term "manufacturer" as any person engaged in the business of manufacturing of automobiles, and also provides that "(t)he Secretary shall prescribe rules for determining, in cases where more than one person is the manufacturer of an automobile, which person is to be treated as the manufacturer of such automobile for purposes of this part * * *." NHTSA has issued regulations under this secton to cover automobiles manufactured in stages by different manufacturers. See 49 CFR part 529.

Part 529 does not, however, address every conceivable situation where there is more than one manufacturer. NHTSA has issued an interpretation letter concluding that where more than one company can be considered the manufacturer of a vehicle and the issue of which company is manufacturer of the vehicle for CAFE purposes is not resolved by the statute or by regulations issued under section 501(8), the manufacturers can determine by agreement which of them will count a vehicle as its own. See interpretation letter dated February 19, 1987, name of addressee withheld for purposes of confidentiality. In the letter, the agency indicated that so long as the vehicles are included in some manufacturer's fleet and are not undercounted or double-counted, NHTSA will honor the arrangements made by the manufacturers.

A preliminary issue is whether part 529 applies to any of the manufacturing arrangements of the petitioners. The part applies to "incomplete automobile manufacturers, intermediate manufactures, and final-stage manufacturers of automobiles that are manufactured in two or more stages." The term "incomplete automobile" is defined as "an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system to the extent that those systems are to be part of the completed automobile, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed automobile." The term "incomplete automobile manufacturer" is defined as a "person who manufactures an incomplete automobile by assembling components none of which, taken separately, constitute a complete automobile." The term "final-stage manufacturer" is defined as "a person who performs such manufacturing operations on an incomplete automobile that it becomes a completed automobile."

NHTSA believes that part 529 does not apply to the manufacturing arrangements of Chrysler/Shelby, since Shelby purchases complete vehicles from Chrysler and then performs additional manufacturing operations on the vehicles. The issue of whether part 529 applies to the manufacturing arrangements of GM/ASC and CM/PAS

is a closer case. GM addressed this issue as follows:

> * * * both ASC and PAS performed substantial manufacturing operations on the chassis they received from General Motors. In particular, this involved substantial further manufacture of the powertrains. For example, ASC installed the air induction, exhaust, lubrication and cooling systems. Similarly, PAS installed an intercooler assembly, performed further manufacturing operations on the air conditioning, engine cooling, power steering and emissions systems and even installed rear seats. Because of the substantial further manufacturing operations performed by ASC and PAS, there is a strong argument that the Grand Prix and Firebird chassis as they left General Motors destined for the ASC and PAS manufacturing facilities were not incomplete automobiles as defined by Section 529.3 and, consequently, General Motors is not the incomplete automobile manufacturer of the ASC and PAS vehicles.

NHTSA notes that part 529 was issued in 1977 and reflected the multi-stag manufacturing arrangements, primarily involving light trucks, of that time. After considering the definitions set forth in part 529 and the overall manufacturing arrangements of GM/ASC and GM/PAS, the agency agrees that those arrangements are outside the scope of part 529.

Since part 529 does not cover the manufacturing arrangements of Chrysler/Shelby, GM/ASC, or GM/PAS, the manufacturers can, under NHTSA's past interpretation, determine by agreement which of them will count a vehicle as its own.

II. *Is the low volume manufacturer in a control relationship with the major manufacturer?*

Under section 503(c) of the Cost Savings Act, the automobiles produced by all manufacturers within a control relationship are considered to be manufactured by the same manufacturer. Thus, if the low volume manufacturer is controlled by GM or Chrysler, the major manufacturer's vehicles would be added to those of the low volume manufacturer for purposes of determining eligibility for a low volume exemption. This would make ASC, PAS and/or Shelby ineligible for a low volume exemption.

NHTSA has stated in the past that, in determining what constitutes "control," it examines whether one party has the ability to exercise a major influence on another company's average fuel economy or total production. Factors which are considered include ownership of a significant percentage of a company's outstanding stock, or ability to control the availability of certain models, advertising, pricing, and service and warranty efforts. See, e.g., the agency's February 5, 1985 interpretation letter to Ferrari and its April 19, 1978 letter to the Environmental Protection Agency.

All three petitioners, as well as GM and Chrysler, argued that there is not a control relationship between the petitioners and GM or Chrysler. GM stated that it has no ownership interest in ASC or PAS and shares no common corporate officers with those corporations. It stated that its agreements did not bar those independent companies from producing other vehicles. It also stated that while it had certain agreements with ASC and PAS, it is difficult to conceive of any multi-manufacturer production arrangement in which the parties would not negotiate and agree upon production, service and warranty terms. Chrysler argued that the relationship between it and Shelby is an arms-length agreement negotiated by the two companies. It stated that to find control in such a relationship would be to suggest that any vendor who sells materials to a manufacturer controls the manufacturer. Shelby indicated in its comment that its arrangement with Chrysler does not prevent it from entering into similar agreements with other vehicle manufacturers.

After considering the arguments provided by the five companies, NHTSA has concluded that there is not a control relationship between the petitioners and GM or Chrysler. There are no ownership interests between the companies, and the relationships between the companies appear to be based on arms-length business agreements. In the absence of special other circumstances demonstrating control, NHTSA does not believe that the relationships between the companies indicate control.

III. *Would it be appropriate under the statute for NHTSA to grant a low volume exemption given the significant involvement by GM and Chrysler in the manufacture of the passenger cars at issue and the nature of the manufacturing operations performed by the petitioners?*

Section 502(c) authorizes but does not require NHTSA to exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the agency establishes an alternate standard for the manufacturer at its maximum level. Title V does not provide any explicit guidance to the agency for exercising its discretion. However, NHTSA is guided by the Administrative Procedure Act, which provides that agency actions must not be arbitrary, capricious, an abuse of discretion or otherwise contrary to law.

In establishing the fuel economy regulatory program, Congress had one basic purpose: reducing U.S. consumption of petroleum by automobiles. The mechanism chosen by Congress for achieving that purpose was corporate average fuel economy standards, enabling manufacturers to produce vehicles with fuel economy below the level of the standard if they produce sufficient numbers of vehicles with fuel economy above the level of the standard.

One aspect of the statutory scheme is the provision for low volume exemptions. The legislative history of section 502(c) indicates that Congress authorized low volume exemptions to provide relief for small manufacturers. For example, the House Report discussed this provision under the heading "small manufacturers." H.R. Rep. No. 94–340, 94th Cong., 1st Sess. 90 (1975). The Conference Report, in describing the Senate version of this provision, described it as providing the Secretary authority to exempt "small (less than 10,000 vehicles per year) manufacturers" from passenger car standards. S. Rep. No. 94–516, 94th Cong., 1st Sess. 151 (1975).

Congress also indicated that it was affording this relief to "small" manufacturers because of their limited flexibility to improve fuel economy. For example, the discussion in the Senate Report of an earlier version of section 502(c) stated that "[t]he purpose of the exemption is to provide relief for the special purpose manufacturers, like the Checkers Motor Corporation, which manufacture automobiles for a rather narrow purpose, and are limited in their flexibility to improve fuel economy." S. Rep. No. 94–179, 94th Cong., 1st Sess. 21 (1975).

In deciding whether to exercise its discretion, NHTSA believes it shoud consider both the statutory scheme as a whole and the special provision for low volume exemptions. The agency has tentatively concluded that it would be inconsistent with the statutory scheme to exempt the three petitioners from the generally applicable average fuel economy standards. There are two primary reasons for this tentative conclusion, which are discussed below.

A. Granting the petitions would establish a precedent by which the major manufacturers could easily transfer significant numbers of low fuel economy vehicles out of their fleets and into fleets exempt from the industrywide

CAFE standard. This would disturb the statutory scheme adopted by Congress.

NHTSA is concerned that granting the petitions would establish a precedent by which the major manufacturers could easily transfer significant numbers of low fuel economy vehicles out of their fleets and into fleets exempt from the industrywide CAFE standard.

The passenger cars at issue are essentially high performance versions of GM or Chrysler cars. ASC, under its arrangement with GM, modified GM vehicles to produce the 1989/1990 Turbo Grand Prix and 1990 Grand Prix STE Turbo. The vehicles were then sold through Pontiac dealers. PAS, under its arrangement with GM, modified GM vehicles to produce the 1989 20th Anniversary Trans Am. Shelby, under its arrangement with Chrysler, modified Chrysler vehicles to produce special versions of several Chrysler products. The vehicles were then sold through Dodge dealers selected by Shelby.

In terms of effect, the relationships between GM and Chrysler and the petitioners are not significantly different than if GM and Chrysler contracted out selected powertrain work to other companies. The result is that the major manufacturers can sell, through their dealers, high performance versions of selected GM and Chrysler models. The fact that the sale may be indirect, in the sense that the low volume manufacturer may be an intervening purchaser, does not alter the basic effect.

An advertisement for the Grand Prix STE which appeared in Fortune Magazine illustrates the effects of these types of manufacturer relationships. The advertisement is headlined "A Uniquely American Performance Car For the Grown-Up Who Hasn't Given Up, The Grand Prix STE," and prominently features the trademark "Pontiac We Build Excitement." The advertisement includes the GM logo and is copyrighted by GM. The first paragraph of text reads as follows:

> Okay, so you've got a career and responsibility. Pontiac's still willing to revive the driving enthusiasm of your youth with a Special Touring Edition of Grand Prix. From the pavement up, it's a sport sedan formulated with as much of our brand of Excitement as you can get without a prescription.

To a reader of the advertisement, and presumably to a purchaser, the Grand Prix STE is simply another GM car. The only mention of ASC in the advertisement is a small footnote which reads as follows: "Turbo system mfd. by ASC Inc."

If NHTSA granted the petitions, the major manufacturers could be encouraged to adopt similar relationships with other companies, for the purpose of transferring low fuel economy vehicles out of their fleets and into fleets exempt from the industrywide CAFE standard. This would disturb the statutory scheme. In establishing a program of average fuel economy standards, Congress intended to permit manufacturers to produce vehicles with fuel economy below the level of the standard, but only if they produce sufficient numbers of vehicles with fuel economy above the level of the standard to enable them to meet the standard. If manufacturers could transfer low fuel economy vehicles out of their fleets and into fleets exempt from the industrywide standard, they would have less incentive to produce vehicles with fuel economy above the level of the standard.

NHTSA does not believe that this was a reason behind GM's and Chrysler's arrangements with the petitioners. In fact, the number of vehicles manufactured by ASC, PAS and Shelby to date are very small and would have little or no effect on GM's and Chrysler's CAFE values at current production levels. In administering the statute, however, NHTSA must carefully consider the potential practical effects of the precedents that are established by its actions.

The agency notes that its primary concern is not whether a major manufacturer or a low volume manufacturer takes responsibility for CAFE standards but instead whether a major manufacturer's vehicles are placed in a fleet exempt from the industrywide CAFE standard. NHTSA continues to believe that since part 529 does not cover the manufacturing arrangements of Chrysler/Shelby, GM/ASC, or GM/PAS, the manufacturers can determine by agreement which of them will count a vehicle as its own. If the low volume manufacturer decides to take CAFE responsibility, however, the agency has tentatively concluded that it would be inappropriate to grant that company a low volume exemption.

B. NHTSA does not believe that Congress intended low volume exemptions to be available to manufacturers whose primary manufacturing operation does not involve changing the basic nature of major manufacturers' cars.

The primary manufacturing operations engaged in by ASC, PAS and Shelby consist of boosting the performance of major manufacturer's cars. NHTSA does not believe that Congress intended low volume exemptions to be available to such manufacturers.

As indicated above, the legislative history indicates that Congress authorized low volume exemptions to provide relief for small special purpose manufacturers, such as Checker, which have limited flexibility to improve fuel economy. NHTSA believes that Congress, in establishing the low volume exemption procedures, had in mind manufacturers which produce their own special vehicle types, as opposed to companies which primarily boost the performance or otherwise modify a major manufacturer's vehicles, without changing its basic nature. For example, the agency does not view PAS's use of a turbocharger V-6, instead of Pontiac's V-8, in a Trans Am as changing the vehicle's basic nature as a high performance 2 + 2 car.

The agency also notes that CAFE standards impose constraints on vehicle performance. While manufacturers may meet CAFE standards in many ways, one option is to reduce or constrain performance. To the extent that another company comes along and boosts the performance of a major manufacturer's vehicles, it may be "undoing" a fuel economy improvement made for the purpose of meeting fuel economy standards. NHTSA has tentatively concluded that it would be inappropriate for the agency to then grant that company a low volume exemption.

For the reason discussed above, NHTSA is proposing to deny the petitions filed by ASC, PAS and Shelby.

Interested persons are invited to submit comments on the proposed decision. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on January 22, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-1852 Filed 1-25-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 18, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0242
Form Number: 6197
Type of Review: Revision
Title: Gas Guzzler Tax
Description: Form 6197 is used to compute tax on gas-guzzler automobiles under 26 U.S.C. 4064. Tax is reported quarterly on Form 720. One Form 6197 is filed when production and sales of a model year is ended. Autos not meeting certain standards are taxable. IRS uses the information to verify computation of tax and compliance with the law.
Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations
Estimated Number of Respondents: 545.
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping—4 hours, 18 minutes
Learning about the law or the form—12 minutes
Preparing and sending the form to IRS—17 minutes
Frequency of Response: Annually
Estimated Total Recordkeeping/ Reporting Burden: 2,605 hours
OMB Number: 1545-0245
Form Number: 6627
Type of Review: Revision
Title: Environmental Taxes
Description: Form 6627 is attached to Form 720 to compute and collect tax on petroleum, chemicals, imported chemical substances, and ozone-depleting chemicals.
Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations
Estimated Number of Respondents: 8,280
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping—29 hours, 4 minutes
Learning about the law or the form—6 minutes
Preparing and sending the form to IRS—42 minutes
Frequency of Response: Quarterly
Estimated Total Recordkeeping/ Reporting Burden: 226,919 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91-1912 Filed 1-25-91; 8:45 am]

BILLING CODE 4830-01-M

Customs Service

Application for Recordation of Trade Name: "Ohaus Corporation"

ACTION: Notice of application of recordation of Trade Name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1964, as amended (15 U.S.C. 1124), of the trade name "OHAUS CORPORATION," used by Ohaus Corporation, formerly called Ohaus Scale Corporation, a corporation organized under the laws of the State of New Jersey, located at 29 Hanover Road, Florham Park, New Jersey 07932.

The application states that the trade name is used in connection with weighing apparatus, including balances, scales, weights and containers and accessories for same, manufactured in the United States and exported for sale in foreign countries.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATES: Comments must be received on or before March 29, 1991.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention: Intellectual Property Rights Task Force, 1301 Constitution Avenue NW., (room 2131), Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Delois Cooper, Intellectual Property Rights Task Force, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-7005).

John F. Atwood,

Chief, Intellectual Property, Rights Task Force.

[FR Doc. 91-1847 Filed 1-25-91; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Meeting of Advisory Board for Cuba Broadcasting

The Advisory Board for Cuba Broadcasting will conduct a meeting on January 31, 1991, in Room 3557, 400 Sixth Street SW., Washington, DC. Below is the intended agenda.

Thursday, January 31, 1991

Part One—Closed to the Public

10:30 a.m. 1. Classified Intelligence Briefing on Cuba
11:30 a.m. 2. Alternate TV Marti Broadcasting Schedule

Part Two—Open to the Public

12:00 p.m. 3. Radio Marti Discussion
12:30 p.m. 4. TV Marti Discussion
1:00 p.m. 5. Public Testimony Period

Items one and two, which will be discussed from 10:30 a.m. to 12 p.m. will be closed to the public. Information in item one involves the discussion of classified information. Closing such deliberations to the public is justified under (5 U.S.C. 522b(c)(1)). Information discussed in item two relates to information the premature disclosure of which would be likely to frustrate the implementation of a proposed agency action (5 U.S.C. 522b(c)(9)(B)).

Members of the public interested in attending the meeting should contact James Skinner at (202) 401–7312 to make prior arrangements, as access to the building is controlled.

Dated: January 22, 1991.

Bruce S. Gelb,

Director.

[FR Doc. 91–1836 Filed 1–25–91; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Organization of the Department of Veterans Affairs

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs Act dated October 25, 1988, established the Department of Veterans Affairs (VA) as an executive level Department. The effective date of the Act was March 15, 1989. This notice provides the organizational structure and functional alignment of VA.

EFFECTIVE DATE: March 15, 1989.

FOR FURTHER INFORMATION CONTACT: B. Michael Berger, Director, Records Management Service (723), Office of Information Resources Policies, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3616.

SUPPLEMENTARY INFORMATION: VA was established as an Executive Department by Public Law 100–527, Department of Veterans Affairs Act, dated October 25, 1988. This notice provides information about the organization of the new Department as required by 5 U.S.C. 552(a)(1). VA is in the process of revising the VA Organization Manual, M–00–1, to reflect the organizational information presented below.

Approved: January 16, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Statement of Organization, Department of Veterans Affairs

Section 1. General

(a) Authority.

(1) The old Veterans Administration was established as an independent agency under the President by Executive Order 5398 of July 21, 1930 (46. Stat. 1016). This Act authorized the President to consolidate and coordinate the U.S. Veterans Bureau, Bureau of Pensions, and National Homes for Disabled Volunteer Soldiers.

(2) The Department of Veterans Affairs was established by the Department of Veterans Affairs Act, Public Law 100–527, dated October 25, 1988, and effective March 15, 1989. The essential mission of VA did not change; however, the organizational structure and functional alignment did.

(3) The Department operates diverse programs to benefit veterans and members of their families. These benefits include but are not limited to: compensation payments for disabilities or death related to military service; pensions; education and rehabilitation; home loan guaranty; burial; and a medical care program incorporating nursing homes, domiciliaries, outpatient clinics, and medical centers. VA includes three major organizational elements that respond to directly to those needs: the Veterans Health Services and Research Administration (VHS&RA), the Veterans Benefits Administration (VBA), and the National Cemetery System (NCS). Each has field facilities and a Central Office component. There are also six Assistant Secretaries and other key offices within VA Central Office which provide Departmentwide support in various functional areas.

b. *Organization*

VA is organized as follows:

(1) *Central Office.* VA Central Office consists of the following:

Office of the Secretary

The Secretary
The Deputy Secretary

Veterans Health Services and Research Administration

Chief Medical Director
Deputy Chief Medical Director
Deputy Chief Medical Director for Administration and Operations
Medical Inspector
Associate Deputy Chief Medical Director
Associate Chief Medical Director for Quality Management
Associate Chief Medical Director for External Relations
Associate Chief Medical Director for Operations
Associate Chief Medical Director for Administration
Associate Chief Medical Director for Resource Management

Veterans Benefits Administration

Chief Benefits Director
Deputy Chief Benefits Director
Assistant Chief Benefits Director for Planning
Assistant Chief Benefits Director for Information Resource Management
Director, Eastern Area
Director, Central Area
Director, Southern Area
Director, Western Area
Director, Compensation and Pension
Director, Education Service
Director, Loan Guaranty Service
Director, Veterans Assistance Service
Director, Vocational Rehabilitation Service
Director, Insurance Service

National Cemetery System

Director
Director, Management and Support
Director, Field Operations
Director, Monument Service

Assistant Secretary for Finance and Planning (Chief Financial Officer)

Assistant Secretary
Deputy Assistant Secretary for Budget
Deputy Assistant Secretary for Planning and Management Analysis
Deputy Assistant Secretary for Financial Management

Assistant Secretary for Information Resources Management (Chief Information Resources Officer)

Assistant Secretary
Deputy Assistant Secretary for Information Resources Plans and Policies
Deputy Assistant Secretary for Information Resources Operations

Assistant Secretary for Human Resources and Administration

Assistant Secretary
Deputy Assistant Secretary for Personnel and Labor Relations
Deputy Assistant Secretary for Equal Employment Opportunity
Deputy Assistant Secretary for Administration
Deputy Assistant Secretary for Security and Law Enforcement

Assistant Secretary for Veterans Liaison and Program Coordination

Assistant Secretary
Deputy Assistant Secretary for Veterans Liaison
Deputy Assistant Secretary for Program Coordination and Evaluation

Assistant Secretary for Acquisition and Facilities

Assistant Secretary
Principal Deputy Assistant Secretary
Deputy Assistant Secretary for Facilities
Deputy Assistant Secretary for Acquisition and Materiel Management
Director, Veterans Canteen Service

Assistant Secretary for Congressional and Public Affairs

Assistant Secretary
Deputy Assistant Secretary for Congressional Affairs
Deputy Assistant Secretary for Public Affairs

Other Key Offices

Board of Contract Appeals
Board of Veterans Appeals
Office of the General Counsel
Office of the Inspector General
Office of Small and Disadvantaged Business Utilization

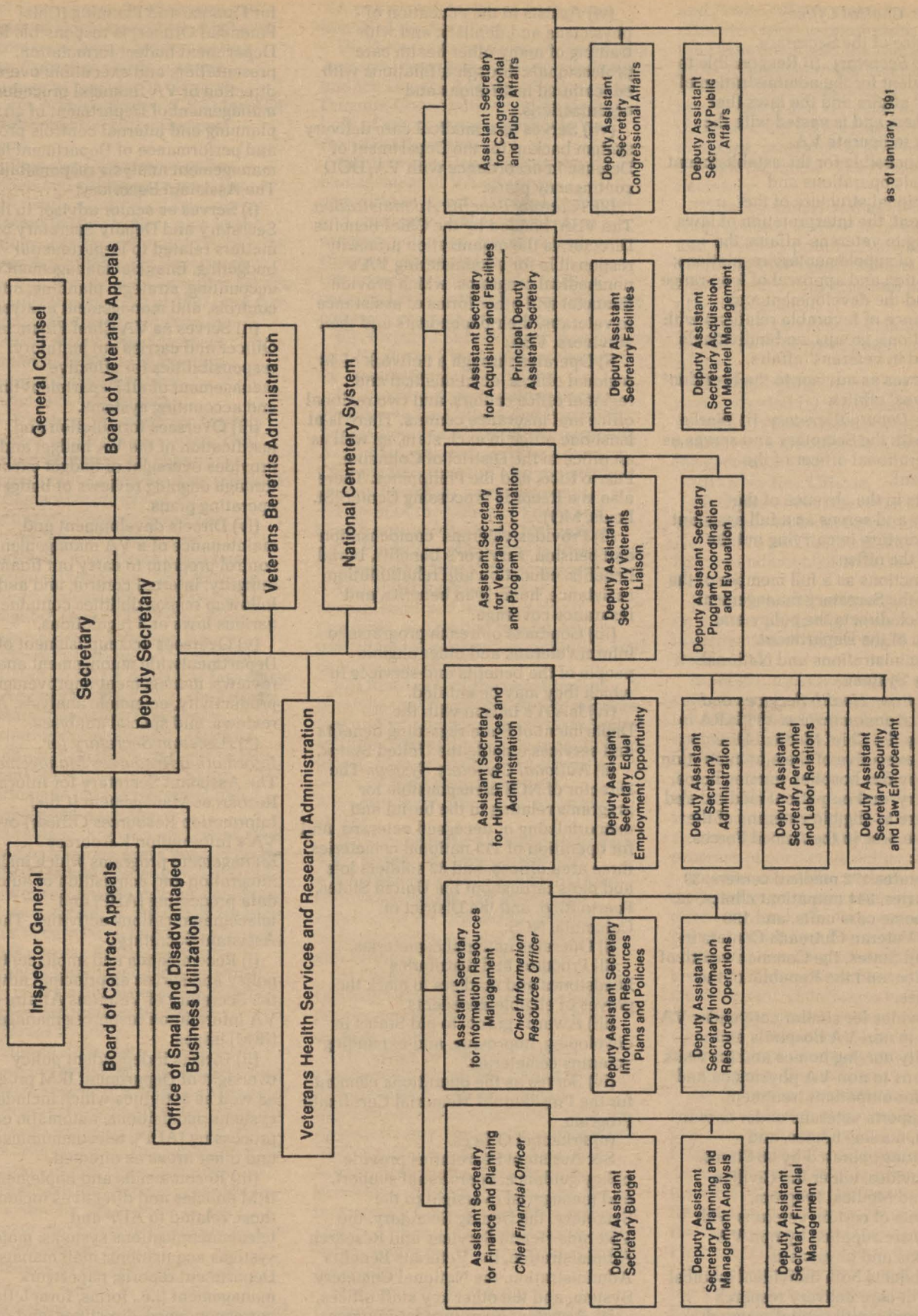
(2) *Field Facilities.* The term applies to VA installations located in the field and includes the following:

Regional Ofices
Regional Offices and Insurance Centers
Medical Centers
Medical and Regional Office Centers
Domiciliaries
Outpatient Clinics
VA Offices
Data Processing Centers
Finance Center
Regional Office of Audit
Regional Office of Investigations
Field Office of Investigations
Sub Office of Audit
Public Affairs Regional Offices
Prosthetics Research and Development Center
Prosthetics Distribution Center
Records Processing Center
Supply Depots
Marketing Center
National Cemetery Area Offices
National Cemeteries
Vet Centers
Veterans Canteen Service Field Offices
Veterans Canteen Service Finance Center

c. *The Line of Authority*

The authority to issue operational orders to all field stations is restricted to the Office of the Secretary, Department of Veterans Affairs. The Chief Benefits Director, the Chief Medical Director, the NCS Director, the General Counsel, the Inspector General, the Assistant Secretary for Acquisition and Facilities, and the Assistant Secretary for Finance and Planning are authorized to issue operational orders to their respective field elements.

BILLING CODE 8320-01-M



BILLING CODE 8320-01-C

Section 2. Central Office

(a) Office of the Secretary.

(1) *The Secretary.* (i) Responsible to the President for the administration of veterans' affairs and the laws that govern them and is vested with the authority to operate VA.

(ii) Responsible for the establishment of the basic operations and organizational structure of the Department; the interpretation of laws pertaining to veterans' affairs; the issuance of supplementary regulations; the initiation and approval of long-range plans; and the development and maintenance of favorable relations with organizations, groups, and individuals interested in veterans' affairs.

(iii) Serves as advisor to the President on veterans' affairs.

(2) *The Deputy Secretary.* (i) Works closely with the Secretary and serves as chief operational officer of the Department.

(ii) Acts in the absence of the Secretary and serves as a full assistant to the Secretary in carrying out the duties of the office.

(iii) Functions as a full member of the Office of the Secretary management team which directs the policy and operation of the Department.

(b) Administrations and National Cemetery System

(1) *Veterans Health Services and Research Administration.* VHS&RA is headed by the Chief Medical Director, the chief executive of the administration which provides hospital, nursing home, domiciliary, and outpatient medical and dental care to eligible veterans of the military service in the Armed Forces. VHS&RA:

(i) Operates 172 medical centers, 33 domiciliaries, 344 outpatient clinics, 127 nursing home care units, and 198 Vietnam Veteran Outreach Centers in the United States, the Commonwealth of Puerto Rico, and the Republic of the Philippines.

(ii) Provides for similar care under VA auspices in non-VA hospitals and community nursing homes and for visits by veterans to non-VA physicians and dentists for outpatient treatment.

(iii) Supports veterans under care in hospitals, nursing homes, and domiciliaries operated by 38 States.

(iv) Provides, under the Civilian Health and Medical Program, dependents of certain veterans with medical care supplied by non-VA institutions and physicians.

(v) Conducts both individual medical and health-care delivery research projects and multihospital research programs.

(vi) Assists in the education of physicians and dentists, and with training of many other health care professionals through affiliations with educational institutions and organizations.

(vii) Serves as a medical care delivery system backup for the Department of Defense in accordance with VA/DOD contingency plans.

(2) *Veterans Benefits Administration.* The VBA, headed by the Chief Benefits Director, is the organization primarily responsible for administering VA's nonmedical programs, which provide financial and other forms of assistance to veterans, their dependents and their survivors. VBA:

(i) Operates through a network of 48 regional offices, eight medical and regional office centers, and two regional office and insurance centers. There is at least one office in each state, as well as an office in the District of Columbia, Puerto Rico, and the Philippines. There also is a Records Processing Center (St. Louis, MO).

(ii) Provides veterans' compensation and pension, survivor's benefits, burial benefits, education and rehabilitation assistance, home loan benefits, and insurance coverage.

(iii) Conducts outreach programs to inform veterans and other eligible people of the benefits and services to which they may be entitled.

(iv) Is VA's liaison with the Department of State regarding benefits and services outside the United States.

(3) *National Cemetery System.* The Director of NCS is responsible for programs relating to the burial and memorializing of deceased veterans, and for operation of 113 national cemeteries, three area offices, and 33 soldiers lots and plots throughout the United States, Puerto Rico, and the District of Columbia. NCS:

(i) Operates national cemeteries.

(ii) Procures and distributes headstones and markers to mark the graves of eligible decedents.

(iii) Awards grants to aid States in developing, improving, and expanding veterans cemeteries.

(iv) Serves as the operations element for the Presidential Memorial Certificate Program.

(c) Principal Offices.

Six Assistant Secretaries provide policy guidance, operational support, and managerial oversight to the Secretary, the Deputy Secretary, the Veterans Health Services and Research Administration, the Veterans Benefits Administration, the National Cemetery System, and the other key staff offices.

(1) *Assistant Secretary for Finance and Planning.* The Assistant Secretary for Finance and Planning (Chief Financial Officer) is responsible for Department budget formulation, presentation, and execution; overall direction of VA financial procedures; management of Department of strategic planning and internal controls programs; and performance of Department level management analysis responsibilities. The Assistant Secretary:

(i) Serves as senior advisor to the Secretary and Deputy Secretary on all matters related to Departmental budgeting, financial management and accounting, strategic planning, internal controls, and management analysis.

(ii) Serves as VA Chief Financial Officer and carries out statutory responsibilities for effective management of all Department financial and accounting systems.

(iii) Oversees formulation and justification of the VA budget and provides oversight of budget execution through ongoing reviews of budget operating plans.

(iv) Directs development and maintenance of a VA management control program to carry out financial integrity, internal control, and audit followup responsibilities contained in various laws and regulations.

(v) Oversees accomplishment of Departmentwide management analysis reviews, management improvement, productivity, economic analysis, A–76 reviews, and special analyses.

(2) *Assistant Secretary for Information Resources Management.* The Assistant Secretary for Information Resources Management (Chief Information Resources Officer) oversees VA's Information Resources Management programs which include integration and acquisition of automated data processing (ADP) and telecommunications activities. The Assistant Secretary:

(i) Recommends and implements policy and serves as principal advisor to the Secretary of Veterans Affairs on all VA information resources management (IRM) issues.

(ii) Directs independent policy oversight of Department IRM programs, as well as activities which include major systems acquisitions, automatic data processing (ADP), telecommunications, and other areas as directed.

(iii) Recommends and implements IRM policies and directives including those related to ADP and telecommunications systems; major systems acquisitions; mail management; Department reports; paperwork management (i.e., forms, form letters, correspondence, directives, and records management); and VA regulations.

(iv) Coordinates development and updates of Departmentwide ADP and telecommunications modernization plans. Approves all Department procurement requests to General Services Administration (GSA) for ADP and telecommunications support systems.

(v) Provides Department policy direction and guidance to meet the requirements established by statutes governing IRM activities, such as the Freedom of Information Act (FOIA), the Privacy Act of 1974, the Paperwork Reduction Act (44 U.S.C. chapter 35), the Computer Security Act of 1987, and the Computer Matching and Privacy Protection Act of 1988. Oversees formulation of VA's Information Collection Budget ensuring Departmental compliance.

(3) *Assistant Secretary for Human Resources and Administration.* The Assistant Secretary for Human Resources and Administration provides direction and oversight of the Department's Personnel and Labor Relations, Equal Employment Opportunity, and Security and Law Enforcement Programs. The Assistant Secretary also provide direction and oversight of Central Office building management and serves as the Department's Designated Safety and Health Official. The Assistant Secretary:

(i) Advises the Secretary, the Deputy Secretary, administration heads, Assistant Secretaries, and other key staff officials on plans, policies, and program operations related to the Department's human resources and administration programs.

(ii) Provides direction and oversight to four major program areas headed by the Deputy Assistant Secretaries for Equal Employment Opportunity, for Personnel and Labor Relations, for Administration, and for Security and Law Enforcement.

(iii) Serves as the Department's Designated Safety and Health Official and is responsible for coordinating the headquarters renovation effort (Prospectus Project).

(4) *Assistant Secretary for Veterans Liaison and Program Coordination.* The Assistant Secretary for Veterans Liaison and Program Coordination serves as the Secretary's primary liaison to veterans organizations, and is responsible for the evaluation of programs under 38 U.S.C. 219. The Assistant Secretary is also responsible for the conduct of VA consumer and intergovernmental affairs. The Assistant Secretary:

(i) Serves as the Secretary's key advisor and liaison to veterans organizations, soliciting their advice and concerns when needed and presenting VA policy and decisions to them on behalf of the Secretary.

(ii) Directs the activities of the Deputy Assistant Secretary for Veterans Liaison and the Deputy Assistant Secretary for Program Coordination and Evaluation, both of whom report directly to the Assistant Secretary.

(iii) Provides Departmental-level management of VA advisory committees, directs intergovernmental and consumer affairs, coordinates program activities, monitors and supports issues and related Departmental initiatives of special concern to the veterans community, and conducts program evaluations.

(5) *Assistant Secretary for Acquisition and Facilities.* The Assistant Secretary for Acquisition and Facilities:

(i) Provides general management direction to the Offices and Facilities, Acquisition and Material Management, Asset Management, and the Veterans Canteen Services and also assists the Deputy Secretary in management direction of the Office of Small and Disadvantaged Business Utilization.

(ii) Provides policy-level guidance and strategic direction to the management of VA's capital facilities, asset management and real property programs, acquisition regulations, procedures and inventory activities, and canteen operations.

(iii) Ensures that the construction planning and budgeting, design services, and project management of VA's capital facilities and real property programs are timely, of high quality, and serve the needs of VA's administrations, Assistant Secretaries, and other key offices.

(iv) Oversees the strategic planning of VA's inventory management and acquisition process assuring that cost-effective methods and innovative approaches are utilized to provide medical equipment and supplies, drugs and services to all VA facilities.

(v) Oversees operations of Veterans Canteen Service (VCS) with focus on improving canteen services at all medical centers.

(vi) Serves as the VA's Senior Procurement Executive, Director of Environmental Affairs, and the Department's principal liaison with the Federal Energy Management Program's "656" Committee, General Services Administration, the Real Property Executives Advisory Committee, the Interagency Council on Metric Policy, and the Office of Federal Procurement Policy within the Office of Management and Budget.

(6) *Assistant Secretary for Congressional and Public Affairs.* The Assistant Secretary for Congressional and Public Affairs maintains an effective working relationship between the Department and the Congress in order to best serve the veterans of this nation and their dependents and beneficiaries and is responsible for disseminating information on VA activities, programs, and benefits through the media. The Assistant Secretary:

(i) Recommends and implements congressional and public affairs policy and serves as principal advisor to the Secretary of Veterans Affairs on the Department's congressional and public affairs programs.

(ii) Provides executive management of the Office of Congressional and Public Affairs.

(iii) Coordinates messages communicated by the Department through the news media to its various audiences, especially the Congress and the general public.

(d) Other Key Offices.

(1) *Office of the Inspector General.* In accordance with the Inspector General Act of 1978 and the Inspector General Act Amendments of 1988, the Inspector General:

(i) Advises and assists the Secretary on matters pertaining to the investigation of waste, fraud, and abuse within VA.

(ii) Plans, organizes, staffs, directs, controls, and reports on audits and investigations of VA programs and operations and other activities financed by VA. Keeps the Secretary and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

(iii) Recommends corrective actions designed to promote economy, efficiency, and effectiveness and to prevent and detect fraud, waste, and abuse. Advises Department officials of problem areas or areas in need of improvement. Determines sufficient resources to ensure prompt and adequate criminal and administrative investigations are made consistent with the Inspector General Act.

(iv) Oversees, coordinates, and inspects followup programs in the Department; including conducting followup audits of major program deficiencies disclosed in prior Office of Inspector General (OIG) audit reports. Refers significant unresolved issues to the Deputy Secretary (Department Audit Followup Official) for final decisions.

(v) Oversees, monitors, and evaluates the Veterans Health Services and Research Administration's quality assurance programs and activities and

its medical inspector office so as to provide the Chief Medical Director, the Secretary, and the Congress with clear and objective assessments of the effectiveness of those programs and operations.

(vi) Administers a computerized, centralized audit followup system for all OIG and GAO reports which tracks planned corrective actions until completion of action and audit-related receivables until collection or write-off.

(vii) Reports to the Attorney General whenever reasonable grounds exist to believe that there has been a violation of Federal criminal law.

(2) *Board of Veterans Appeals.* The Board of Veterans Appeals has statutory jurisdiction to decide appeals to the Secretary for benefits under all laws administered by VA (38 U.S.C. 4001–4010; 38 CFR 19.1–19.3). Decisions are final, with the exception of matters subject to 38 U.S.C. 223, matters covered by 38 U.S.C. 775 and 784, matters arising under 38 U.S.C. chapter 37, and matters covered by 38 U.S.C. chapter 72. In the course of appellate responsibility, the Chairman:

(i) Advises and assists the Secretary on policies, practices, and legislative provisions relating to veterans' benefits considered to be in need of study or modification.

(ii) Has jurisdiction over and is responsible to the Secretary for the activities of the Board of Veterans Appeals in the consideration and determination of appeals for benefits under all laws administered by VA.

(3) *Board of Contract Appeals.* (i) The Board of Contract Appeals, established by the Secretary of Veterans Affairs (formerly the Administrator of Veterans Affairs) under the provisions of the Contract Disputes Act of 1978 (Pub. L. 95–563, 41 U.S.C. 601, et seq.), hears and decides appeals from final decisions of VA Contracting Officers on contract claims which come within the terms of that statute. In August 1985, the Board's jurisdiction was expanded to include applications for attorney fees and expenses under the Equal Access to Justice Act, Pub. L. No. 96–481, 94 Stat. 2325, as amended by Pub. L. No. 99–80, 99 Stat. 183.

(ii) The Chairman of the Board of Contract Appeals advises and assists the Secretary on issues relating to the Board, and also serves as a member of the Board.

(4) *Office of the General Counsel.* The General Counsel:

(i) Advises and assists the Secretary on all legal issues, and serves as the chief officer of VA in all matters of law and legislation.

(ii) Is responsible for rendering legal advice and services to the Secretary and other Department officials. This includes interpreting all laws administered by VA and establishing precedent opinions that are binding upon all VA employees and beneficiaries; assisting in the formulation of governing regulations and amendments reviewing them for legal correctness; and, in cooperation with the Department of Justice, representing the Secretary and the Department in litigation involving VA or VA officials.

(iii) Supervises and coordinates (in close consultation with the Assistant Secretary for Congressional and Public Affairs) all matters pertaining to proposed legislation, Executive Orders, and proclamations involving VA.

(iv) Supervises and maintains a field legal service composed of District Counsels and their staffs located at appropriate field stations to act for the General Counsel, as directed, and provide legal advice and service to all field elements.

(5) *Office of Small and Disadvantaged Business Utilization.* The Office of Small and Disadvantaged Business Utilization:

(i) Promotes increased utilization of small and small disadvantaged businesses throughout VA, including set-aside acquisition opportunities for small businesses owned and controlled by socially and economically disadvantages individuals designated under section 8(a) of the Small Business Act as administered by the Small Business Administration.

(ii) Promotes subcontracting opportunities for small and small disadvantaged businesses with VA major prime contractors.

(iii) Responsible for the implementation of VA's endeavors on behalf of small businesses, including businesses owned and controlled by disadvantaged persons, women, U.S. Armed Forces veterans, and labor surplus area concerns.

(iv) Assists and coordinates the efforts of VA personnel as they perform duties relating to programs mandated under sections 8 and 15 of the Small Business Act, as amended.

(v) Provides outreach and liaison support to businesses (large and small) and other members of the private sector concerning procurement related issues.

Section 3. Field Facilities

(a) Regional Office.

A VA regional office is a field station that grants benefits and services provided by law for veterans, their dependents, and their beneficiaries within the assigned territory. A typical regional office furnishes information regarding VA benefits and services; adjudicates claims and makes awards for disability compensation and pension; determines eligibility for hospitalization; supervises the payment of VA benefits to incompetent beneficiaries; aids, guides, and prescribes vocational rehabilitation training and administers education benefits; guarantees loans for the purchase of manufactured homes and lots, purchase of condominium units, and purchase, construction or alteration of homes and farm residences, and under certain conditions, guarantees refinancing loans; processes grants for specially adapted housing; processes death claims; assists the veteran in exercising rights to benefits and services; and supervises VA offices under its jurisdiction. The regional office is also responsible for direct veterans' assistance activities including information dissemination, personal and telephone counseling on benefits and services, claims assistance, inquiry resolution, and outreach.

Services to U.S. veterans in most foreign countries normally are provided by the Washington regional office located in the District of Columbia. The Honolulu regional office serves the islands of American Samoa, the Commonwealth of Northern Mariana Islands, Guam, Wake, Midway, and the Trust Territory of the Pacific Islands. U.S. veterans in the Virgin Islands and Mexico are served by the San Juan and Houston regional offices respectively. Service is provided in cooperation with embassy staffs of the Department of State.

(b) Insurance Center.

The VA regional office and insurance centers in Philadelphia, Pennsylvania, and St. Paul, Minnesota, house all individual insurance records covering service members and veterans under the Government-administered programs: WW I United States Government Life Insurance; WW II National Service Life Insurance; Post-Korean Conflict; Veterans Reopened Insurance for the disabled of WW II and Korea; and Service-Disabled Veterans Insurance, the only Government-administered program open for new issues to disabled veterans only. All WW I insurance accounts, and those accounts for which the premium is paid by allotment from military service pay, by deduction from VA compensation, or by pre-authorized debit, are located at Philadelphia. All remaining insurance accounts are geographically distributed between the two VA centers, with the Mississippi River serving as the approximate line of division. The Philadelphia center is also responsible for formulating policy for the veterans' insurance programs.

The insurance functions performed by the two insurance centers include the total range of insurance operations to provide individual policy, underwriting, and life and death insurance claims service for service members, veterans, and their beneficiaries.

(c) VA Regional Office and Insurance Center.

VA regional office and insurance centers combine a regional office and an insurance center under the jurisdiction of one director.

(d) VA Office.

A VA office provides veterans assistance and other services in an area that cannot be conveniently served by a regional office or center.

(e) Medical Center.

VA medical centers provide eligible beneficiaries with medical and other health care services equivalent to those provided by private-sector institutions, augmented in many instances by services to meet the special requirements of veterans. There are 133 VA medical facilities affiliated with 104 medical facilities for residency training; 72 VA medical facilities are affiliated with 59 dental schools; and all medical centers cooperate with one or more educational institutions in programs of nursing, associated health professions and occupations, and administrative training and related research, both in individual projects and in association with other VA medical centers in broad cooperative studies. There are 106 nursing home care units associated with VA medical centers to provide skilled nursing care and related medical services to patients who are no longer in need of hospital care.

(f) VA Medical and Regional Office Center.

VA medical and regional office centers combine a regional office and a medical center or a regional office, medical center, and domiciliary under the jurisdiction of one director.

(g) Domiciliary.

VA domiciliaries provide the least intensive level of inpatient medical care. This includes necessary ambulatory medical treatment, rehabilitation, and support services in a structured environment to veterans who are unable because of their disabilities to provide adequately for themselves in the community.

(h) Outpatient Clinic.

VA outpatient clinics provide eligible beneficiaries with ambulatory care.

(i) Vet Centers.

Vet Centers are community-based counseling centers which provide readjustment counseling to veterans of the Vietnam Era. Readjustment counseling includes a wide range of psychological counseling and psychosocial services.

(j) VA National Cemetery.

VA national cemeteries are the final resting places for burial of the remains of veterans, their spouses, and certain eligible dependents. Memorial markers for veterans whose remains are not available for burial may also be placed in a national cemetery. These cemeteries are designated as national shrines created in tribute to the sacrifices of all Americans who have served in the U.S. Armed Forces.

(k) Data Processing Centers.

VA data processing centers are responsible for the installation, operation, and maintenance of automated systems developed to support veterans benefits, medical, and administrative programs. The equipment at a center consists of sophisticated computers and communication devices which operate on a 7-day week, 24-hour-a-day schedule, in support of the VA mission.

Section 4. Directory

(a) This is a directory of VA field facilities. Information concerning VA benefits, as well as such matters as office hours, location of public reference facilities, fees charged for certain services, information, or decisions, may be obtained by writing or otherwise contacting the office concerned. On any matter in which there may be a question as to the proper point of contact for services, information, or decisions, the request may be directed to the Director or to the Veterans Service Division in the nearest VA regional office or medical center with a regional office activity.

(b) For information or assistance in applying for veterans' benefits, write, call, or visit a Veterans Benefits Counselor at the nearest VA regional office or VA office listed. Applications for medical benefits may be made at a VA medical center or any VA station with medical facilities.

(c) All 50 states have toll-free telephone services to VA regional offices. Look under U.S. Government, Veterans Administration or Department of Veterans Affairs, in your local directory or dial the directory assistance operator. Beneficiaries residing or traveling overseas requiring information or assistance relative to VA benefits, should contact the nearest American Embassy or Consulate. In Canada, claimants should contact the local office of Veterans Affairs Canada.

(d) VA life insurance is administered at the VA center in Philadelphia or St. Paul. For any information concerning a policy, write directly to the VA center administering it; give the insured's full name, date of birth, and policy number (service number should be given if the policy number is not known). A nationwide toll free number (1–800–669–8477) for insurance inquiries and requests for service is also available to policyholders and beneficiaries who are covered by a VA administered life insurance policy. Calls may be made to this number from 8:00 am to 5:30 pm (Eastern Standard Time).

(e) An appeal to the Board of Veterans Appeals should be filed with the field facility which made the decision to which the appeal relates. The field facility is responsible for any preliminary development indicated, for furnishing the claimant and his or her representative, if any, a statement of the case giving "notice" of the pertinent facts on the issue or issues, the applicable laws, regulations, and the action taken, sufficient to permit proper exercise of the statutory appeal right. When the preliminary action has been completed, the field facility certifies the appeal and transfers the records to the Board in Washington, D.C. The claimant and his or her representative are notified of the certification and transfer of the records to the Board. The Board conducts a formal hearing, if desired, and makes a final decision based upon review of the entire record.

(f) VA field facilities are listed below by state. Information on VA benefits may be obtained from the following facilities: Regional Offices (RO); other offices (O); Regional Office and Insurance Centers in Philadelphia and St. Paul (RO & Insurance Center); and United States Veterans Assistance Centers (USVAC). Abbreviations of other installations are as follows: MC-Medical Center (Hospital); D-Domiciliary Care: NHC-Nursing Home Care; OPC-Outpatient Clinic (independent); OCH-Outpatient Clinic (physically separated from hospital); OCS-Outpatient Clinic Satellite; NC-National Cemetery. Information on Alcohol or Drug Dependence Treatment, Department of Veterans Affairs Vet Centers, and Department of Veterans Affairs National Cemeteries is included at the end of this listing.

Alabama

Birmingham (MC) 35233, 700 S. 19th St., (205) 933–8101

Mobile (OCS) 36617, 2451 Fillingim St., (205) 690–2875

Montgomery (MC) 36193, 215 Perry Hill Rd., (205) 272–4670

Montgomery (RO) 36104, 474 S. Court St.

If you reside in the local telephone area of: Birmingham 322–2492, Huntsville 539–7742, Mobile 432–8645, Montgomery 262–7781

All other areas in Alabama: (800) 392–8054
Tuscaloosa (MC&NHC) 35404, Loop Rd., (205) 553–3760
Tuskegee (MC&NHC) 36083, (205) 727–0550

Alaska

Anchorage (RO&OPC) 99501, 235 E. 8th Avenue
Fort Wainwright (OCS) 99703, Bassett Army Hospital, Room 262, (907) 353–5208
Juneau (O) 99802, P.O. Box 20069, Federal Building, Room 103, (907) 586–7472
If you live in the local telephone area of: Anchorage 279–6116
All other Alaska communities: (800) 478–2500

Arizona

Phoenix (MC&NHC) 85012, 7th St. & Indian School Rd., (602) 277–5551
Phoenix (RO) 85012, 3225 N. Central Ave.
If you live in the local telephone area of: Phoenix 263–5411
All other Arizona areas: (800) 352–0451
Prescott (MC&D) 86313, (602) 445–4860
Tucson (MC&NHC) 85723, 3601 S. 6th Ave. (602) 792–1450

Arkansas

Fayetteville (MC) 72701, 1100 N. College Ave., (501) 443–4301
Little Rock (RO) 72214, Building 65, Ft. Roots, North Little Rock, AR. Mailing: P.O. Box 1280, North Little Rock, 72214, (501) 370–3800
If you live in the local telephone area of: Little Rock 370–3800
All other Arkansas areas, (800) 482–5434
Little Rock (MC,D,&NHC), 4300 West Seventh St. 72205, (501) 661–1201, (501) 372–8361

California

East Los Angeles, (USVAC) 90022
VA Ambulatory Care Facility, 5400 E. Olympic Blvd., Commerce, (213) 722–4927
Fresno (MC&NHC) 93703, 2615 E. Clinton Ave., (209) 225–6100
Livermore (MC&NHC) 94550, 4951 Arroyo Road, (415) 447–2560
Loma Linda (MC&NHC) 92354, 11201 Benton St., (714) 825–7084
Long Beach (MC&NHC) 90822, 5901 E. 7th St., (213) 494–2611
Los Angeles (RO) 90024, Federal Building, 11000 Wilshire Blvd., West Los Angeles

Counties of Inyo, Kern, Los Angeles, Orange, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura

If you live in the local telephone area of: Central LA 879–1303, Inglewood 645–5420, La Crescenta 248–0450, Malibu/Santa Monica 451–0672, San Fernando/Van Nuys 997–6401, San Pedro/Long Beach 833–5241, Sierra Madre 355–3305, West Los Angeles 479–4011, Whittier 945–3841
Outside LA: Anaheim 821–1020, Bakersfield 834–3142, Huntington Beach 848–1500, Ontario 983–9784, Oxnard 487–3977, San Bernardino 884–4874, Santa Ana 543–8403, Santa Barbara 963–0643
All other areas of the above counties: (800) 352–6592
Counties of Alpine, Lassen, Modoc, and Mono served by: Reno, NV (RO) 89520, 1201 Terminal Way, (800) 648–5406
West Los Angeles (MC,D,&NHC) 90073, 11301 Wilshire Blvd., (213) 478–3711
Los Angeles (OC) 90013, 425 S. Hill St., (213) 894–3902
Martinez (MC) 94553, 150 Muir Rd., (415) 228–6800
Oakland (OCS) 94612, 2221 Martin Luther King, Jr. Way, (415) 273–7096
Palo Alto (MC,D,&NHC) 94304, 3801 Miranda Ave., (415) 493–5000
Sacramento (OCS) 95820, 4600 Broadway, (916) 440–2625
San Diego (RO) 92108, 2022 Camino Del Rio North

Counties of Imperial, Riverside, and San Diego:

If you live in the local telephone area of: Riverside 686–1132, San Diego 297–8220
All other areas of the above counties: (800) 532–3811
San Diego (MC&NHC) 92161, 3350 LaJolla Village Dr., (619) 552–8585
San Diego (OCH) 92108, Palomar Building, 2022 Camino Del Rio North
San Francisco (RO) 94105, 211 Main St.
If you live in the local telephone area of: Freemont 796–9212, Fresno (800) 652–1296, Modesto 521–9260, Monterey 649–3550, Oakland 893–0405, Palo Alto 321–5615, Sacramento 929–5863
For recorded benefits information call (415) 974–0138 (24-hour availability but not toll free)
San Francisco 495–8900, San Jose 998–7373, Santa Rosa 544–3520, Stockton 948–8860, Vallejo 552–1556
All other areas of Northern California: (800) 652–1240
San Francisco (MC) 94121, 4150 Clement St., (415) 221–4810
Santa Barbara (OCS) 93110, 4440 Calle Real, (805) 683–1491
Sepulveda (MC&NHC) 91343, 16111 Plummer St., (818) 891–7711

Colorado

Denver (RO) 80225, 44 Union Blvd., P.O. Box 25126
If you live in the local telephone area of: Colorado Springs 475–9911, Denver 980–1300, Pueblo 545–1764
All other Colorado areas: (800) 332–6742
Colorado Springs (OCS), 1785 N. Academy Blvd. 80909, (719) 380–0004
Denver (MC&NHC) 80220, 1055 Clermont St., (303) 399–8020
Fort Lyon (MC&NHC) 81038, (719) 456–1260
Grand Junction (MC&NHC) 81501, 2121 North Ave., (303) 242–0731

Connecticut

Hartford (RO) 06103, 450 Main St., (203) 278–3230
All other Connecticut areas: (800) 842–4315
Newington (MC) 06111, 555 Willard Ave., (203) 666–4361
West Haven (MC&NHC), 06516 W. Spring St., (203) 932–5711

Delaware

Wilmington (RO) 19805, 1601 Kirkwood Highway
If you live in the local telephone area of: Wilmington 998–0191
All other Delaware areas: (800) 292–7855
Wilmington (MC&NHC) 19805 1601 Kirkwood Highway (302) 994–2511

District of Columbia

Washington, D.C. (RO) 20421, 941 N. Capitol St., N.E., (202) 872–1151
Washington, D.C. (MC&NHC) 20422, 50 Irving St., N.W., (202) 745–8000

Florida

Bay Pines (MC,D,NHC,&OCH) 33504, 1000 Bay Pines Blvd., N, (813) 398–6661
Daytona Beach (OCS) 32119, 1900 Mason, (904) 274–4600
Fort Myers (OCS) 33901, 2070 Carrell Road, (813) 939–3939
Gainesville (MC&NHC) 32602, 1601 Southwest Archer Rd., (904) 376–1611
Jacksonville (O) 32206, 1833 Boulevard, Room 3105, (904) 356–1581
Jacksonville (OCS) 32206, 1833 Boulevard, (904) 791–2751
Lake City (MC&NHC) 32055, 801 S. Marion St., (904) 755–3016
Miami (MC&NHC) 33125, 1201 N.W. 16th St., (305) 324–4455
Miami (O) 33130, Federal Building, Rm. 103A, 51 S.W. 1st Ave., (305) 358–0669
Oakland Park (OCS) 33334, 5599 N. Dixie Highway, (305) 771–2101
Orlando (OCS) 32806, 83 W. Columbia St., (407) 425–7521
Pensacola (O) 32403–7492, 321 Kenmore Road, Room 16250, (904) 434–3537
Pensacola (OCS) 32503, 312 Kenmore Road, (904) 476–1100
Port Richey (OCS) 34668, 8911 Ponderosa, (813) 869–3203
Riviera Beach (OCS) 33404, Exec. Plaza, 301 Broadway, (407) 845–2800
St. Petersburg (RO) 33701, 144 1st Ave. S.
If you live in the local telephone area of: Cocoa/Cocoa Beach 783–8930, Daytona Beach 255–8351, Ft. Lauderdale/Hollywood 522–4725, Ft. Myers 334–0900, Gainesville 376–5266, Jacksonville 356–1581, Lakeland/Winter Haven 688–7499, Melbourne 724–5600, Miami 358–0669, Orlando 425–2626, Pensacola 434–3537, Sarasota 366–2939, Tallahassee 224–6872
Tampa 299–0451, West Palm Beach 833–5734, St. Petersburg/Clearwater 898–2121
All other Florida areas: (800) 282–8821
Tampa (MC&NHC) 33612, 13000 N. 30th St., (813) 972–2000

Georgia

Atlanta (RO) 30365, 730 Peachtree St. N.E.
If you live in the local telephone area of: Albany 439–2331, Atlanta 881–1776, Augusta 738–5403, Columbus 324–6646, Macon 745–6517, Savannah 232–3365
All other Georgia areas: (800) 282–0232
Augusta (MC&NHC) 30910, 2460 Wrightsboro Road, (404) 724–5116
Decatur (MC&NHC) 30033, 1670 Clairmont Rd., (404) 321–6111
Dublin (MC,D,&NHC) 31021, Highway 80 West, (912) 272–1210

Guam

VA Office, U.S. Naval Regional Medical Center, P.O. Box 7613, FPO San Francisco 96630, (671) 344–9200

Hawaii

Honolulu (RO) 96813, PJKK Federal Bldg., 300 Ala Moana Blvd., Mailing: P.O. Box 50188, Honolulu, 96850
If you live in the local telephone area of: IS. of Oahu 541–1000, Is. of Hawaii 961–3661, Is. of Kauai, Lanai, Maui, and Molokai (800) 232–2535
Honolulu (OPC) 96850, P.O. Box 50188, 300 Ala Moana Blvd., (808) 541–1600

Idaho

Boise (RO) 83724, Federal Bldg. and U.S. Courthouse, 550 W. Fort St., Box 044
If you live in the local telephone area of: Boise 334–1010
All other Idaho areas: 800–632–2003
Boise (MC&NHC) 83702, 500 West Fort (208) 336–5100

Illinois

Chicago (MC) 60611, 333 E. Huron St. (Lakeside), (312) 943–6600
Chicago (MC) 60680, (West Side), 820 S. Damen Ave., P.O. Box 8195, (312) 666–6500
Chicago (RO) 60680, 536 S. Clark St., P.O. Box 8136
If you live in the local telephone area of: Bloomington/Normal 829–4374, Carbondale 457–8161, Champaign/Urbana 344–7505, Chicago 663–5510, Decatur 429–9445, E. St. Louis 274–5444, Peoria 674–0901, Rockford 968–0538, Springfield 789–1246
All other Illinois areas: (800) 972–5327
Danville (MC&NHC) 61832, 1900 E. Main St., (217) 442–8000
Hines (MC&NHC) 60141, Roosevelt Rd. & 5th Ave., (708) 343–7200
Marion (MC) 62959, Main St., (618) 997–5311
North Chicago (MC,D,&NHC) 60064, 3001 Green Bay Rd., (708) 688–1900
Peoria (OCS) 61605, 411 Dr. Martin Luther King Dr., (309) 671–7350

Indiana

Crown Point (OPC) 46307, Adam Benjamin, Jr. VA OPC, 9330 Broadway, (219) 622–0001
Evansville (OCS) 47708, 214 S.E., 6th St., (812) 465–6202
Fort Wayne (MC&NHC) 46805, 1600 Randalia Dr., (219) 426–5431
Indianapolis (RO) 46204, 575 N. Pennsylvania St.
If you live in the local telephone area of: Anderson/Muncie 289–9377, Evansville 426–1403, Ft. Wayne 422–9189, Gary/Hammond/E. Chicago 886–9184, Indianapolis 269–5566, Lafayette/W. Lafayette 742–0084, South Bend 232–3011, Terre Haute 232–1030
All other Indiana areas: (800) 382–4540
Indianapolis (MC&NHC) 46202, 1481 W. 10th St., (317) (635–7401)
Marion (MC&NHC) 46952, E. 38th St., (317) 674–3321

Iowa

Des Moines (RO) 50309, 210 Walnut St., 284–0219
All other Iowa area: (800) 362–2222
Des Moines (MC) 50310, 30th & Euclid Ave., (515) 255–2173
Iowa City (MC) 52240, Hwy. 6 West, (319) 338–0581
Knoxville (MC&NHC) 50138, 1515 W. Pleasant St., (515) 842–3101

Kansas

Leavenworth (MC, D, & NHC) 66048, 4201 S. 4th St., Trafficway, (913) 682–2000
Topeka (MC&NHC) 66622, 2200 Gage Blvd., (913) 272–3111
Wichita (RO) 67211, Blvd. Office Park, 901 George Washington Blvd.
If you live in the local telephone area of: Kansas City 432–1650, Topeka 357–5301, Wichita 264–9123
All other Kansas areas: (800) 362–2444
Wichita (MC&NHC) 67218, 5500 E. Kellogg, (366) 685–221

Kentucky

Lexington (MC&NHC) 40507, Leestown Rd., (606) 233–4511
Louisville (RO) 40202, 600 Martin Luther King, Jr. Place
If you live in the local telephone area of: Lexington 253–0566, Louisville 584–2231
All other areas: (800) 292–4562
Louisville (MC) 40202, 800 Zom Ave., (502) 895–3401

Louisiana

Alexandria (MC&NHC) 71301, Shreveport Hwy., (318) 473–0010
New Orleans (RO) 70113, 701 Loyola Ave.
If you live in the local telphone area of: Baton Rouge 343–5539, New Orleans 561–0121, Shreveport 424–8442
All other Louisiana Area: (800) 462–9510
New Orleans (MC) 70146, 1601 Perdido St., (504) 568–0811
Shreveport (MC&O) 71130, 510 E. Stoner Ave., (318) 424–8442, (Office) (318) 221–8411, (Hospital)

Maine

Portland (O) 04101, 236 Oxford St., (207) 775–6391
Togus (MC&RO Center) 04330
If you live in the local telphone area of: Portland 775–6391, Togus 623–8000
All other Maine areas: (800) 452–1935
Togus (MC&NHC) 04330, Route 17 East, (207) 623–8411

Maryland

Counties of Montgomery and Prince Georges: Washington, DC (RO) 20421, 941 N. Capitol St. N.E.
If you live in the above Maryland counties: (202) 872–1151
All other Maryland Counties: Baltimore (RO) 21201, 31 Hopkins Plaza Federal Building
If you live in the local telephone area of: Baltimore, 685–5454
All other Maryland areas: (800) 492–9503
Baltimore (OCH) 21201, 31 Hopkins Plaza Federal Building, (301) 962–4610
Baltimore (MC) 21218, 3900 Loch Raven Blvd., (301) 467–9932
Baltimore (Prosthetics Assessment Information Center) 21201, 103 S. Gay St., (301) 962–3934
Fort Howard (MC&NHC) 21052, N. Point Rd., (301) 477–1800
Perry Point (MC&NHC) 21902, (301) 642–2411

Massachusetts

Beford (MC&NHC) 01730, 200 Spring Rd., (617) 275–7500
Boston (MC) 02130, 150 S. Huntington Ave., (617) 232–9500
Towns of Fall River and New Bedford and counties of Barnstable, Dukes, Nantucket, part of Plymouth, and Bristol are served by Providence, R.I., (RO) 02903
380 Westminster Mall, (800) 556–3893
Remaining Massachusetts counties served by: Boston (RO) 02203, John Fitzgerald Kennedy, Federal Bldg. Government Center
If you live in the local telephone area of: Boston 277–4600, Brockton 588–0764 Fitchburg/Leominster 342–8927 Lawrence 687–3332, Lowell 454–5463 Springfield 785–5343 Worcester 791–3593
All other Massachusetts areas: (800) 392–6015
Boston (OCH) 02114, 251 Causeway St., (617) 248–1043
Brockton (MC&NHC) 02401, 940 Belmont St., (617) 563–4500
Lowell (OCS) 01852, Old Post Office Bldg., 50 Kearney Square, (617) 453–1746
New Beford (OCS) 02740, 53 N. Sixth St., (617) 997–0721
Northhampton (MC&NHC) 01060, N. Main St., (413) 584–4040
Springfield (OCS) 01103, 1550 Main St., (413) 785–0301
West Roxbury (MC) 02132, 1400 VFW Parkway, (617) 323–7700
Worcester (OCS) 01608, 595 Main St., (617) 793–0200

Michigan

Allen Park (MC&NHC) 48101, Southfield & Outer Drive, (313) 562–6000
Ann Arbor (MC&NHC) 48105, 2215 Fuller Rd., (313) 769–7100
Battle Creek (MC&NHC) 49016, 5500 Armstrong Rd., (616) 966–5600
Detroit (RO) 48226, Patrick V McNamara, Federal Bldg., 477 Michigan Ave., (313) 964–5110
All other Michigan area: (800) 827–1996
Gaylord (OCS) 49735, 850 N. Otsego, (517) 732–7525
Grand Rapids (OCS) 49503, 260 Jefferson St. S.E., (616) 459–2200
Iron Mountain (MC, D, & NHC) 49801, H Street, (906) 774–3300
Saginaw (MC&NHC) 48602, 1500 Weiss St., (517) 793–2340

Minnesota

Minneapolis (MC) 55417, One Veterans Drive, (612) 725–2000
St. Cloud (MC,D,&NHC) 56301, 8th St. No. 44th Ave., (612) 252–1670
St. Paul (RO & Insurance Center) 55111 Federal Bldg., Fort Snelling
If you live in the local telephone area of: Duluth 722–4467, Minneapolis 726–1454, Rochester 288–5888, St. Cloud 253–9300, St Paul 726–1454
Counties of Becker, Beltrami, Clay, Clearwater, Kitterson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Red Lake, Roseau, and Wilkin are served by Fargo, ND (RO) (800) 437–4668
All other Minnesota areas: (800) 692–2121
St. Paul (OCH) 55111, Fort Snelling, (612) 725–6767

Mississippi

Biloxi (MC,D,&NHC) 39531, Pass Rd., (601) 388–5541

Jackson ((MC&NHC) 39216, 1500 E. Woodrow Wilson Dr., (601) 362–4471
Jackson (RO) 39269 100 W. Capitol St.
If you live in the local telephone area of: Biloxi/Gulfport 432–5996 Jackson 965–4873 Meridian 693–6166
All other Mississippi areas: (800) 682–5270

Missouri

Columbia (MC&NHC) 65201 600 Hospital Dr. (314) 443–2511
Kansas City (MC) 64128 4801 Linwood Blvd. (816) 861–4700
Kansas City (O) 64106, Federal Office Bldg., 601 E. 12th St., (816) 426–3369, (800) 392–3761
Mt. Vernon (OCS) 65712, 600 No. Main Street, (417)–466–0101
Poplar Bluff (MC&NHC) 63901, Hwy. 67 North, (314) 686–4151
St. Louis (RO) 63103, Federal Bldg. 1520 Market St., (314) 342–1171
All other Missouri areas: (800) 392–3761
St. Louis (MC&NHC) 63106, 915 N. Grand Blvd., (314) 652–4100

Montana

Fort Harrison (RO) 59636
If you live in the local telephone area of: Fort Harrison/Helena 442–6839 Great Falls 761–3215
All other Montana Areas: (800) 332–6125
Billings (OCH) 59101, 1127 Alderson Ave., (406) 657–6786
Fort Harrison (MC) 59636, Wm. St. Hwy. 12 W., (406) 442–6410
Miles City (MC&NHC) 59301, 210 S. Winchester, (406) 232–3060

Nebraska

Grand Island (MC&NHC) 68803 2201 N. Broad Well (308) 382–3660
Lincoln (RO) 68508, Federal Bldg 100, Centennial Mall North
If you live in the local telephone area of: Lincoln 437–5001
All other Nebraska areas: (800) 827–6544
Lincoln (MC) 68510, 600 S. 70th St., (402) 489–3802
Omaha (MC) 68105, 4101 Woolworth Ave., (402) 346–8800

Nevada

Las Vegas (OCS) 89102 1703 W. Charleston, (702) 386–2921
Reno (MC&NHC) 89520 1000 Locust St., (702) 786–7200
Reno (RO) 89520 1201 Terminal Way
If you live in the local telephone area of: Las Vegas 368–2921 Reno 329–9244
All other Nevada areas: (800) 992–5740
California Counties of Alpine, Lassen, Moduc, and Mono, (800) 648–5406

New Hampshire

Manchester (RO) 03101, Norris Cotton Federal Bldg., 275 Chestnut St.
If you live in the local telephone area of: Manchester 666–7785
All other New Hampshire areas: (800) 562–5260
Manchester (MC&NHC) 03104, 718 Smyth Rd. (603) 624–4366

New Jersey

East Orange (MC&NHC) 07019 Tremont Ave. & S. Center. (201) 676–1000
Lyons (MC,D,&NHC) 07939, Valley & Knollcroft R., (201) 647–0180
Newark (RO) 07102, 20 Washington Place
If you live in the local telephone area of: Camden 541–8650, Clifton/Paterson/Passaic 472–9632, Long Branch/Asbury Park 870–2550, New Brunswick/Sayereville 828–5600, Newark 645–2150
All other New Jersey areas: (800) 242–5867
Newark (OCH) 07102, 20 Washington Place, (201) 645–3491

New Mexico

Albuquerque (RO) 87102 Dennis Chavez, Federal Bldg., U.S. Courthouse 500 Gold Ave., S.W.
If you live in the local telephone area of: Albuquerque 766–3361
All other New Mexico areas: (800) 432–6853
Albuquerque (MC&NHC) 87108, 2100 Ridgecrest Dr., S.E., (505) 265–1711

New York

Albany (MC&NHC) 12208, 113 Holland Ave., (518) 462–3311, Albany (O) 12207
Leo W. O'Brien Federal Bldg., Clinton Ave. & N. Pearl St., (800) 442–5882
Batavia (MC&NHC) 14020, Redfield Pkway, (716) 343–7500
Bath (MC,D,&NHC) 14810, Argonne Ave., (607) 776–2111
Bronx (MC&NHC) 10468, 130 W. Kingsbridge Rd., (212) 584–9000
Brooklyn (MC,D,&NHC) 11209, 800 Poly Place, (212) 836–6600
Brooklyn (OCS) 11205, 35 Ryerson St., (212) 330–7785
Buffalo (RO) 14202, Federal Bldg., 111 W. Huron St.
If you live in the local telephone area of: Binghamton 772–0856, Buffalo 846–5191, Rochester 232–5290, Syracuse 476–5544, Utica 735–6431
All other areas of Western New York State: (800) 462–1130
Buffalo (MC&NHC) 14215, 3495 Bailey Ave., (716) 834–9200
Canandaigua (MC&NHC) 14424, Ft. Hill Ave., (716) 394–2000
Castle Point (MC&NHC) 12511, (914) 831–2000
Montrose (MC,D,&NHC) 10548, Old Albany Post Rd., (914) 737–4400
New York City (MC) 10010, 1st Ave. at E. 24th St. (212) 686–7500
New York City (RO) 10001, 252 Seventh Ave. at 24th St.

Counties of Albany, Bronx, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Kings, Montgomery, Nassau, New York, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, Westchester

In the above counties: (800) 827–8954
New York City (OCH) 10001, 252 7th Ave. at 24th St., (212) 620–6636
Northport (MC) 11768, Long Island Middleville Rd., (516) 261–4400
Rochester (O&OCS) 14614 Federal Office Bldg. and Courthouse 100 State St., (716) 232–5290 (O) (716) 263–5734 (OCS)
Syracuse (O) 13202 344 West Genesee St. (315) 476–5544
Syracuse (MC&NHC) 13210, Irving Ave. & University Pl., (315) 476–7461

North Carolina

Asheville (MC&NHC) 28805, (704) 298–7911
Durham (MC) 27705, 508 Fulton St., (919) 286–0411
Fayetteville (MC&NHC) 28301, 2300 Ramsey St., (919) 488–2120
Salisbury (MC&NHC) 28144, 1601 Brenner Ave., (704) 636–2351
Winston-Salem (OCH) 27155, Federal Bldg., 251 N. Main St., (919) 761–3562
Winston-Salem (RO) 27155, Federal Bldg., 251 N Main St.
If you live in the local telephone area of: Asheville 253–6861, Charlotte 375–9351, Durham 683–1367, Fayetteville 323–1261, Greensboro 274–1994, High Point 887–1202, Raleigh 821–1166, Winston-Salem 748–1800
All other North Carolina: areas (800) 642–0841

North Dakota

Fargo (RO) 58102, 655 First Ave., North 2101 North Elm Street (mail only)
If you live in the local telephone area of: Fargo 293–3656
All other North Dakota areas: (800) 342–4790
Fargo (MC&NHC) 58102, 2101 Elm St., (701) 232–3241

Ohio

Brecksville (MC,D,&NHC) 44141, 10000 Brecksville Rd., (216) 526–3030
Canton (OCS) 44702, 221 Third St., SE, 489–4660
Chillicothe (MC&NHC) 45601, 7273 State Route 104, (614) 773–1141
Cincinnati (MC&NHC) 45220, 3200 Vine St., (800) 827–8272
Cincinnati (O) 45202, Rm. 1020, Federal Off. Bldg., 550 Main St., (513) 579–0505
Cleveland (MC) 44106, 10701 E. Boulevard, (216) 791–3800
Cleveland (RO) 44199, Anthony J. Celebrezze Federal Bldg., 1240 E. 9th St.
If you live in the local telephone area of: Cleveland 621–5050
All other Ohio areas: (800) 827–8272
Columbus (O) 43215, Rm. 309 Fed. Bldg., 200 N. High St., (800) 827–8272
Columbus (OPC) 43221, 2090 Kenny Rd., (614) 469–5665
Dayton (MC,D,&NHC) 45428, 4100 W. 3rd St., (513) 268–6511
Toledo (OCS) 43614, 3333 Glendale Ave., (419) 259–2000

Oklahoma

Lawton (OCS) 73505, 3401 West Gore Blvd., 4th Floor, (405) 357–6611
Muskogee (MC) 74401, Memorial Station, Honor Heights Dr., (918) 683–3261
Muskogee (RO) 74401, Federal Bldg., 125 S. Main St.
If you live in the local telephone area of: Lawton 357–2400, Muskogee 687–2500, Oklahoma City 235–2641, Tulsa 583–5891
All other Oklahoma areas: (800) 482–2800
Oklahoma City (O) 73102, 200 N.W. 5th St., (405) 235–2641
Oklahoma City (MC) 73104, 921 N.E. 13th St., (405) 272–9876
Tulsa (OCS) 74127, 635 W. 11th St., (918) 581–7161

Oregon

Portland (MC,D,&NHC) 97207, 3710 SW. U.S. Veterans Hospital Rd., (503) 222–9221
Portland (RO) 97204, Federal Bldg., 1220 SW. 3rd Avenue
If you live in the local telephone area of: Portland 376–2431
All other Oregon areas: (800) 452–7276
Portland (OCH) 97207, PO Box 1036, 8909 SW Barbur Blvd., 244–9222
Roseburg (MC&NHC) 97470, New Garden Valley Blvd., (503) 672–4411
White City (D) 97501, Hwy. 62, (503) 826–2111

Pennsylvania

Allentown (OCS) 18103, 2937 Hamilton Blvd., (215) 776–4304
Altoona (MC&NHC) 16603, Pleasant Valley Blvd., (814) 943–8164
Butler (MC,D,&NHC) 16001, New Castle Rd., (412) 287–4781
Coatesville (MC,D,&NHC) 19320, Black Horse Rd., (215) 384–7711
Erie (MC&NHC) 16501, 135 E. 38th St., (814) 868–8661
Harrisburg (OCS) 17108, Federal Bldg., 228 Walnut St., (717) 782–4590
Lebanon (MC&NHC) 17042, South Lincoln Ave., (717) 272–6621
Philadelphia (MC) 19104, University & Woodland Aves., (215) 382–2400
Philadelphia (OCH) 19102, 421 Cherry St., (215) 597–7244
Philadelphia (RO & Insurance Center) 19101, P.O. Box 8079, 5000 Wissahickon Ave.

Counties of Adams, Berks, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York

If you live in the local telephone area of: Philadelphia 438–5225
For recorded benefits information call (215) 951–5368 (24-hour availability but not toll free)
In the above counties: (800) 869–8387
Pittsburgh (RO) 15222, 1000 Liberty Ave.
If you live in the local telephone area of: Pittsburgh 281–4233
All other areas in Western Pennsylvania: (800) 242–0233
Pittsburgh (MC&NHC) 15240, University Drive C., (412) 683–3000
Pittsburgh (MC) 15202, Highland Drive, (412) 363–4900
Sayre (OCS) 18840, Guthrie Square, (717) 888–8062
Wilkes-Barre (O) 18701, 19–27 N. Main St., (717) 824–4636
Wilkes-Barre (MC&NHC) 18711, 1111 E. End Blvd., (717) 824–3521

Philippines

Manila (RO&OPC) 96528, 1131 Roxas Blvd., (Manila), APO San Francisco (Air Mail), 521–7116 Ask for ext. 2577 or 2220, (Overseas Commercial)

Puerto Rico

Mayaguez (OCS) 00708, Highway Number 2, (809) 831–3400, Ask for Ext. 262
San Juan (MC) 00936, Barrio Monacillos, Rio Piedras GPO Box 5800, (809) 758–7575
San Juan (RO) 00936, U.S. Courthouse & Fed. Bldg., Carlos E. Chardon St., Hato Rey, GPO Box 4867, (809) 766–5141
All other Puerto Rico areas: (800) 462–4135
U.S. Virgin Islands: (800) 474–2976

Rhode Island

Providence (RO) 02903, 380 Westminster Mall
If you live in the local telephone area of: Providence 273–4910
All other Rhode Island areas: (800) 322–0230
Providence (MC) 02908, Davis Park, (401) 273–7100

South Carolina

Charleston (MC) 29403, 109 Bee St., (803) 577–5011
Columbia (RO) 29201, 1801 Assembly St.
If you live in the local telephone area of: Charleston 723–5581, Columbia 765–5861, Greenville 232–2457
All other South Carolina areas: (800) 922–1000
Columbia (MC&NHC) 29201, Gamers Ferry Rd., (803) 677–4000
Greenville (OCS) 29601, 120 Mallard St., (803) 232–7303

South Dakota

Fort Meade (MC) 57741, Hwy. 34, (605) 347–2511
Hot Springs (MC&D) 57747, Off 5th St., (605) 745–4101
Sioux Falls (MC&NHC) 57101, 2501 W. 22nd St., (605) 336–3230
Sioux Falls (RO) 57117, P.O. Box 5046, 2510 W. 22nd St.
If you live in the local telephone area of: Sioux Falls 336–3496
All other South Dakota areas: (800) 952–3550

Tennessee

Chattanooga (OCS) 37411, Bldg. 6300 East Gate Center, (615) 855–6550
Knoxville (OCS) 37919, 9047 Executive Park Dr., Suite 100, (615) 549–9319
Memphis (MC&NHC) 38104, 1030 Jefferson Ave., (901) 523–8990
Mountain Home (MC,D,&NHC), Lamont St. 37684, (615) 926–1171
Johnson City, (615) 926–1171
Fort Worth (O) 76102, 819 Taylor St., 336–1641
Houston (RO) 77054, 2515 Murworth Dr.

Counties of Angelina, Aransas, Atacosa, Austin, Bandera, Bee, Bexar, Blanco, Brazoria, Brewster,a, Maverick, Medina, Menard, Montgomery, Nacogdoches, Newton, Nueces, Orange, Pecos, Polk, Real, Refugio, Sabine, San Augustine, San Jacinto, San Patrico, Schleicher, Shelby, Starr, Sutton, Terrell, Trinity, Tyler, Uvalde, Val Verde, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Wilson, Zapata, and Zavala.

If you live in the local telephone area of: Beaumont 838–6222, Corpus Christi 884–1994, Edinburg/McAllen/Pharr 383–8168, Houston 664–4664, San Antonio 226–7661, Texas City 948–3011
All other areas in the above counties: (800) 392–2200
Houston (MC&NHC) 77211, 2002 Holcombe Blvd., (713) 795–4411
Kerrville (MC&NHC) 78028, Memorial Blvd., (512) 896–2020
Laredo (OCS) 78041, 2333 Saunders, (512) 725–7060
Lubbock (O&OCS) 79401, Federal Building, 1205 Texas Ave., (806) 743–7219 (OC), (800) 792–3271 (Waco RO)
Marlin (MC) 76661, 1016 Ward St., (817) 883–3511
McAllen (OCS) 78501, 3711 North 10th St., (512) 682–4581
San Antonio (MC) 78284, 7400 Merton Minter Blvd., (512) 696–9660
Murfreesboro (MC&NHC) 37130, 3400 Lebanon Hwy., (615) 893–1360
Nashville (RO) 37203, 110 9th Ave., S.
If you live in the local telephone area of: Chattanooga 267–6587, Knoxville 546–5700, Memphis 527–4583, Nashville 736–5251
All other Tennessee areas: (800) 342–8330
Nashville (MC) 37203, 1310 24th Ave., S., (615) 327–4751

Texas

Amarillo (MC) 79106, 6010 Amarillo Blvd., W., (806) 355–9703
Beaumont (OCS) 77701, 3385 Fannin St., (409) 839–2480
Big Spring (MC&NHC) 79720, 2400 S. Gregg St., (915) 263–7361
Bonham (MC,D,&NHC) 75418, NInth & Lipscomb, (214) 583–2111
Corpus Christi (OCS) 78404, 1502 S. Brownlee Blvd., (512) 888–3251
Dallas (O) 75216, U.S. Courthouse and Fed. Office Bldg., 1100 Commerce St., 824–5440
Dallas (MC&NHC) 75210, 4500 S. Lancaster Rd., (214) 376–5451
El Paso (OPC) 79925, 5919 Brook Hollow Dr., (915) 541–7890
San Antonio (OCS) 78229, 9502 Computer Dr., (512) 641–2672
San Antonio (O) 78229/2041, 3601 Bluemel Road, (512) 225–5511, (800) 392–2200
Temple (MC,D,&NHC) 76501, 1901 S. First, (817) 778–4811
Waco (RO) 76799, 1400 N. Valley Mills Dr.
If you live in the local telephone area of: Austin 477–5831, Dallas 824–5440, El Paso 545–2500, Ft. Worth 336–1641, Waco 772–3060
*Bowie County served by Little Rock, AR (RO), 72114 Bldg. 65 Ft. Roots North, Little Rock, AR., (800) 643–5688
All other counties served by Waco: (800) 792–3271
Victoria (OCS) 77901, 2710 E. Airline Road, (512) 572–0007
Waco (MC&NHC) 76711, 4800 Memorial Drive, (817) 752–6581

Utah

Salt Lake City (RO) 84147, P.O. Box 11500, Federal Bldg., 125 S. State St.
If you live in the local telephone area of: Ogden 399–4433, Provo/Orem 375–2902, Salt Lake City 524–5960
All other Utah areas: (800) 662–9163
Salt Lake City (MC&NHC) 84148, 500 Foothill Blvd., (801) 582–1565

Vermont

White River Junction (RO) 05001
If you live in the local telephone area of: White River Junction 296–5177
All other Vermont areas: (800) 622–4134
White River Junction (MC&NHC) N. Hartland Rd. 05001 (802) 295–9363

Virginia

Hampton (MC,D,&NHC) 23667 Emancipation Dr. (804) 722–9961
Richmond (MC&NHC) 23249 1201 Broad Rock Rd. (804) 230–0001

Northern Virginia, Counties of Arlington and Fairfax and the cities of Alexandria, Fairfax, and Falls Church

Washington, DC (RO) 20421 941 N. Capitol St., N.E.
If you live in the above Virginia counties or cities: (202) 872–1151
Roanoke (RO) 24011 210 Franklin Rd., SW.
If you live the local telephone area of: Hampton 722–7477, Norfolk 627–0441, Richmond 648–1621, Roanoke 982–6440
All other Virginia areas: (800) 542–5826
Salem (MC&NHC) 24153, 1970 Roanoke Blvd., (703) 982–2463

Washington

Seattle (RO) 98174, Federal Bldg., 915 2nd Ave.
If you live in the local telephone area of: Seattle 624–7200, Tacoma 383–3851
All other Washington areas: (800) 552–7480
Portland (MC,D&NHC) 3710 SW., U.S. Veterans Hospital Rd. (503) 22–9221
Seattle (MC&NHC) 98108 1660 S. Columbian Way (206) 762–1010
Spokane (MC) 99208 N. 4815 Assembly St. (509) 328–4521
Tacoma (MC,D,&NHC) 98493 American Lake (206) 582–8440
Vancouver (MC,D,&NHC) 98661 3710 S.W. U.S. Veterans Rd. (503) 220–8262
Walla Walla (MC) 99362 77 Wainwright Dr. (509) 525–5200

West Virginia

Beckley (MC&NHC) 25801 200 Veterans Ave. (304) 255–2121
Clarksburg (MC) 26301 Milford/Chestnut Sts. (304) 623–3461

Counties of Brooke, Hancock, Marshall, and Ohio

Pittsburgh, PA (RO) 15222, 1000 Liberty Ave.
If you live in the local telephone area of: Wheeling 232–1431, Other: (800) 642–3520, (Huntington, WV RO)
Remaining counties in West Virginia served by: Huntington (RO) 25701 640 Fourth Avenue
If you live in the local telephone area of: Charleston 344–3531, Huntington 529–5720, Parkersburg 485–9790
All other areas in West Virginia: (800) 642–3520
Huntington (MC) 25704 1540 Spring Valley Dr. (304) 429–6741
Martinsburg (MC,D,&NHC) 25401 Route 9 (304) 263–0811

Wisconsin

Madison (MC) 53705 2500 Overlook Terrace (608) 256–1901
Milwaukee (RO) 53295 5000 W. National Ave., Bldg 6
If you live in the local telephone area of: Milwaukee 383–8680
All other Wisconsin areas: (800) 242–9025
Tomah (MC&NHC) 54660 County Trunk E. (608) 372–3971
Milwaukee (MC,D,&NHC) 53295, 5000 W. National Ave., (414) 384–2000

Department of Veterans Affairs Vet Centers

If the address and/or phone number listed below has changed for any Vet Center, please contact your local telephone operator or the nearest VA office.

Alabama

1425 S. 21st. St., Suite 108, Birmingham 35205, (205) 933–0500
110 Marine St., Mobile 36604, (205) 694–4194

Alaska

4201 Tudor Centre Dr., Suite 115, Anchorage 99508, (907) 563–6966
712 10th Avenue, Fairbanks 99701, (907) 456–4208
905 Cook St, P.O. Box 1883, Kenai 99611, (907) 283–5205
1075 Check St, Suite 111, Wasilia 99687, (907) 376–4318

Arizona

141 East Palm Lane, Phoenix 85004, (602) 261–4769
637 Hillside Ave., Suite A, Prescott 86301, (602) 778–3469
727 N. Swan, Tucson 85711, (602) 323–3271

Arkansas

201 W. Broadway, Suite A, Little Rock 72114, (501) 378–6395

California

859 S. Harbor Blvd., Anaheim 92805, (714) 776–0161
VA East L.A. Clinic, 5400 E. Olympic Blvd., #126, Commerce 90022, (213) 728–9966
1899 Clayton Road, Suite 140, Concord 94520, (415) 680–4526
7157 E. Valley Pkwy., Escondido 92025, (619) 747–7305
305 "V" St., Eureka 95501, (707) 444–8271
1340 Van Ness Ave., Fresno 93721, (209) 487–5660
251 W. 85th Place, Los Angeles 90003, (213) 215–2380
2000 Westwood Blvd., Los Angeles 90025, (213) 475–9509
455 Reservation Rd., Suite E, Marina 93933, (408) 384–1660
287–17th St., Oakland 94612, (415) 763–3904
4954 Arlington Ave., Suite A, Riverside 92504, (714) 359–8967
1111 Howe Ave., Suite 390, Sacramento 95828, (916) 978–5477
2900 6th Ave., San Diego 92103, (619) 294–2040
25 Van Ness Ave., San Francisco, 94102, (415) 431–6021
967 West Hedding, San Jose 95126, (408) 249–1643
32 W. 25th Ave. #202, San Mateo 94403, (415) 570–5918
1300 Santa Barbara Street, Santa Barbara 93101, (805) 564–2345
16126 Lassen, Sepulveda 91343, (818) 892–9227
515 North Gate Blvd., Terre Linda 94903
313 N. Mountain Ave., Upland 91786, (714) 982–0146

Colorado

2128 Pearl St., Boulder 80302, (303) 440–7306
411 S. Tejon, Suite G, Colorado Springs 80903, (719) 471–9992
1820 Gilpin St., Denver 80218, (303) 861–9281

Connecticut

370 Market St., Hartford 06120, (203) 240–3543
562 Whalley Ave., New Haven 06511, (203) 773–2232/2236
16 Franklin St., Room 109, Norwich 06360, (203) 887–1755

Delaware

VA Med. Center Bldg. 2, 1601 Kirkwood Hwy., Wilmington 19805, (302) 994–2878

District of Columbia

737–1/2 8th St. S.E., Washington, DC 20003, (202) 745–8400/8402

Florida

400 East Prospect Rd., Ft. Lauderdale 33334, (305) 563–2992/3
255 Liberty St., Jacksonville 32202, (904) 791–3621
2311 10th Ave., North #13, Lake Worth 33461, (305) 585–0441
412 N.E. 39th St., Miami 33137, (305) 573–8830/1/2
5001 S. Orange Ave., Suite A, Orlando 32809, (305) 648–6151
15 W. Strong St., Suite 100 C, Pensacola 32501, (904) 479–6665
1800 Siesta Drive, Sarasota 33579, (813) 952–9406
235 31st Street, North, St. Petersburg 33713, (813) 327–3355
249 E. 6th Ave., Tallahassee 32303, (904) 681–7172
1507 W. Sligh Ave., Tampa 33604, (813) 228–2621

Georgia

922 W. Peachtree St., Atlanta 30309, (404) 347–7264
8110 White Bluff Rd., Savannah 31406, (912) 927–7360

Hawaii

Hilo Shopping Center, 1261 Kilauea Ave., #260, Hilo 96720, (808) 969–3833
1370 Kapiolani Blvd., Suite 201, Honolulu 96814, (808) 541–1764
Pottery Terrace, Fern Building, 75–5995 Kuakini Hwy., #415, Kailua–Kona 96740, (808) 329–0574
3367 Kuhio Hwy., #101, Lihue 96766, (808) 246–1163
Ting Building, 35 Lunalilo, #101, Wailuku 96793, (808) 242–8557

Idaho

103 W. Boise St., Boise 83702, (208) 342–3612
1975 South 5th St., Pocatello 83201, (208) 232–0316

Illinois

5505 S. Haper, Chicago 60637, (312) 684–5500
1607 W. Howard Street, Chicago 60626, (312) 764–6595
1600 Halsted St., Chicago Heights 60411, (312) 754–0340
1269 N. 89th St., East St. Louis 62203, (618) 397–6602
1529 46th Ave., Moline 61265, (309) 762–6954
155 South Oak Park Ave., Oak Park 60302, (312) 383–3225/6
605 N.E. Monroe St., Peoria 61603, (309) 671–7300
624 South 4th St., Springfield 62703, (309) 671–7300

Indiana

101 N. Kentucky Ave., Evansville 47711, (812) 425–0311
7528 W. Berry St., Fort Wayne 46802, (219) 423–1456
2236 West Ridge Rd., Gary 46408, (219) 887–0048
3833 Meridian, Indianapolis 46208, (317) 927–6440

Iowa

2600 Harding, Des Moines 50310, (515) 284–4929
706 Jackson, Sioux City 51101, (712) 233–3200

Kansas

413 S. Pattie, Wichita 67211, (316) 265–3260

Kentucky

1117 Limestone Rd., Lexington 40503, (606) 276–5269
736 S. 1st St., Louisville 40202, (502) 589–1981

Louisiana

2103 Old Minden Rd., Bossier City 71112, (318) 742–2733
1529 N. Claiborne Ave., New Orleans 70116, (504) 943–8386

Maine

352 Harlow St., Bangor 04401, (207) 947–3391/2
63 Treble St., Portland 04101, (207) 780–3574/5

Maryland

777 Washington Blvd., Baltimore 21230, (301) 539–5511
Elkton Commercial Plaza, South Bridge St., Elkton 21921, (301) 398–0171
1015 Spring St., Suite 101, Silver Spring 20910 (301) 745–8441

Massachusetts

800 N. Main St., Avon 02322, (617) 580–2730
665 Beacon St., Boston 02215, (617) 424–0065
73 East Merrimack St., Lowell 01852, (617) 453–1151
7181 Hillman St., Room 110, New Bedford 02740, (617) 999–6920
1985 Main St., Northgate Plaza, Springfield 01103, (413) 737–5167/8
8 Worcester St., West Boylston 01583, (617) 835–2709

Michigan

1940 Eastern Ave., S.E., Grand Rapids 49507, (616) 243–0385
1766 Fort St., Lincoln Park 47146, (313) 381–1370
20820 Greenfield Rd., Oakpark 48237, (313) 967–0040/1

Minnesota

405 E. Superior St., Duluth 55802, (218) 722–8654
2480 University Ave., St. Paul 55114, (612) 644–4022

Mississippi

767 W. Jackson St., Biloxi 39530, (601) 965–5727
158 E. Pascagoula St., Jackson 39201, (601) 353–4912

Missouri

3931 Main St., Kansas City 64111, (816) 753–1866
2345 Pine St., St. Louis 63103, (314) 231–1260

Montana

1948 Grand Avenue, Billings 59102, (406) 657–6071
929 SW Higgins Ave., Missoula 59802, (406) 721–4918

Nebraska

920 L St., Lincoln 68508, (402) 476–9736
5123 Leavenworth St., Omaha 68106, (402) 553–2068

Nevada

704 S. 6th St., Las Vegas 89101, (702) 388–6368
1155 W. 4th St., Suite 101, Reno 89503, (702) 323–1294

New Hampshire

103 Liberty St., Manchester 03104, (602) 668–7060/61

New Jersey

626 Newark Ave., Jersey City 07306, (201) 656–6986
327 Central Ave., Linwood 08221, (609) 927–8387
75 Halsey St., Newark 07102 (201) 622–6940
318 East State St., Trenton 08608, (609) 989–2260/1

New Mexico

4603 4th St., NW., Albuquerque 87107, (505) 345–8366/8876
4251 E. Main, Farmington 87401, (505) 327–9684/5
1996 St. Michael's Dr., Warner Plaza, Suite 5, Santa Fe 87501, (505) 988–6562

New York

875 Central Ave., Albany 12206, (518) 438–2508
116 West Main St., Babylon 11702, (516) 661–3930
226 E. Fordham Rd., Rooms 216, 217, Bronx 10458, (212) 367–3500/1
165 Cadman Plaza, East Brooklyn 11201, (718) 330–2825/26
351 Linwood Ave., Buffalo 14209, (716) 882–0505/8
45–20 83rd St., Elmhurst 11373, (718) 446–8233/4
166 W. 75th St., New York 10023, (212) 944–2917/30
294 South Plymouth Ave., Rochester 14608 (716) 263–5710
210 North Townsend St., Syracuse 13203, (315) 423–5690
200 Hamilton Ave., White Plains Mall, White Plains 10601, (914) 684–0570

North Carolina

223 S. Brevard St., Suite 103, Charlotte 28202, (704) 333–6107
4 Market Square, Fayetteville 28301 (919) 323–4908
2009 Elm-Eugene St., Greensboro 27406, (919) 333–5366
150 Arlington Blvd., Suite B, Greenville 27834, (919) 355–7920
336 Fayetteville Street Mall, Wake County Building, Room 738, Raleigh 27601, (919) 856–4616

North Dakota

1322 Gateway Dr., Fargo 58103, (701) 237–0942
108 East Burdick Expressway, Minot 58701, (701) 852–0177

Ohio

2134 Lee Rd., Cleveland Heights 44118, (216) 932–8471
30 East Hollister St., Cincinnati 45219, (513) 569–7140
11511 Lorain Ave., Cleveland 44111, (216) 671–8530
1054 E. Broad St., Columbus 43205, (614) 253–3500
6 South Patterson Blvd., Dayton 45402, (513) 461–9150/1

Oklahoma

3033 N. Walnut, Suite 101W, Oklahoma City 73105, (405) 270–5184
1855 E. 15th St., Tulsa 74104, (918) 581–7105

Oregon

1966 Garden Ave., Eugene 97403, (503) 678–6918
615 NW. 5th St., Grants Pass 95726, (503) 479–6912
2450 SE. Belmont, Portland 97214, (503) 231–1586
2009 State St., Salem 97301, (503) 362–9911

Pennsylvania

G. Daniel Baldwin Bldg., 1000 State St., Suites 1 & 2 (Lobby), Erie 16501, (814) 453–7955
1007 North Front St., Harrisburg 17102, (717) 782–3954
5000 Walnut St., McKeesport 15132, (412) 678–7704
1026 Arch St., Philadelphia 19107, (215) 627–0238
5601 N. Broad St., Rm. 204, Philadelphia 19141, (215) 924–4670
954 Penn. Ave., Pittsburgh 15222, (412) 765–1193
959 Wyoming Ave., Scranton 18509, (717) 344–2676

Puerto Rico

52 Gonzalo Marin Ave., Arecibo 00612, (809) 879–4510
35 Mayor St., Ponce 00731, (809) 848–4078
Suite LC8A and LC9, Condomino Med., Center Plaza, La Riviera, Rio Piedras 00921, (809) 783–8794

Rhode Island

789 Park Ave., Cranston 02920, (401) 467–2046

South Carolina

1313 Elmwood Ave., Columbia 29201, (803) 765–9944
904 Pendleton St., Greenville 29601, (803) 271–2711
3366 Rivers Ave., No. Charleston 29405, (803) 747–8387

South Dakota

610 Kansas City St., Rapid City 57701, (605) 348–0077
115 North Dakota St., Sioux Falls 57102, (605) 332–0856

Tennessee

425 Cumberland St., Suite 140, Chattanooga 37415, (615) 752–5234
703 S. Roan St., Johnson City 37601, (615) 928–8387
2817 E. Magnolia Ave., Knoxville 37917, (615) 971–5866
1 North 3rd St., Memphis 38103, (901) 521–3506

Texas

2900 West 10th St., Amarillo 79106, (806) 376–2127
3401 Manor Rd., Suite 102, Austin 78723, (512) 476–0607/8
3134 Reid Dr., Corpus Christi 78404, (512) 888–3101
5415 Maple Ave., Suite 114, Dallas 75235, (214) 634–7024
2121 Wyoming St., El Paso 79903, (915) 542–2851/2/3
1305 W. Magnolia, Suite B, Fort Worth 76104, (817) 921–3733
8100 Washington Ave., Suite 120, Houston 77007, (713) 880–8387
4905A San Jacinto St., Houston 77004, (713) 522–5354/5376
717 Corpus Christi, Laredo 78040, (512) 723–4680
3208 34th St., Lubbock 79410, (806) 743–7551
1317 E. Hackberry St., McAllen 78501, (512) 631–2147
3404 West Illinois, Suite 1, Midland 79703, (915) 697–8222
107 Lexington Ave., San Antonio 78205, (512) 229–4025
1916 Fredericksburg Rd., San Antonio 78201, (512) 229–4120

Utah

750 N. 200 West, Suite 105, Provo 84601, (801) 377–1117
1354 East 3300, South Salt Lake City 84106, (801) 584–1294

Vermont

359 Dorset St., South Burlington 05401, (802) 862–1806
Building No. 2, Gilman Office Center, Holiday Inn Dr., White River Junction 05001, (802) 295–2908

Virgin Islands

United Shopping Plaza, Suite 4, Christiansted, St. Croix 00820, (809) 778–5553
Havensight Mall, St. Thomas 00801, (809) 774–6674

Virginia

7450½ Tidewater Dr., Norfolk 23505, (804) 587–1338
3022 W. Clay St., Richmond 23220, (804) 353–8958
320 Mountain Ave., SW., Roanoke 24014, (703) 342–9726
7024 Spring Garden Dr., Brookfield Plaza, Springfield 22150, (703) 866–0924

Washington

1322 E. Pike St., Seattle 98122, (206) 442–2706
26 West Mission St., Spokane 99207, (509) 327–0274
4801 Pacific Ave., Tacoma 98408, (206) 473–0731/2

West Virginia

314 Neville St., Beckley 25801, (304) 252–8220
1591 Washington St., East Charleston 25301, (304) 343–3825
1014 6th Ave., Huntington 25701, (304) 523–8387
218 West King St., Martinsburg 25401, (304) 263–6776
1191 Pineview Dr., Morgantown 26505, (304) 291–4001/2
701 Mercer St., Princeton 24740, (304) 425–5653
Social Ministries Bldg., 7 13th St., Wheeling 26003, (304) 233–0880, Ext. 271

Wisconsin

147 South Butler St., Madison 53703, (608) 264–5342/3
3400 Wisconsin Ave., Milwaukee 53208, (414) 344–5504

Wyoming

111 S. Jefferson, Casper 82601, (307) 235–8010
3130 Henderson Dr., Cheyenne 82001, (307) 778–7370

Department of Veterans Affairs National Cemeteries

*Available only for burial of eligible survivors of family members already interred: "closed" cemetery.

**Space available only for cremation remains.

***Space also available for cremated remains in a columbarium.

Note: Most closed national cemeteries can inter cremated remains. Occasionally full-casket gravesites become available in closed cemeteries due to disinterments or relinquishment of gravesite reservations made prior to 1962. Contact the cemetery director for information.

Alabama

*Mobile National Cemetery, 1202 Virginia St., Mobile 36604, (Call Barrancas NC, FL, for information)
Fort Mitchell National Cemetery, P.O. Box 2517, Phenix City 36868, (205) 855–4731

Alaska

Ft. Richardson National Cemetery, P.O. Box 5–2498 Ft. Richardson 99505, (907) 862–4217
Sitka National Cemetery, P.O. Box 1065, (Call Fort Richardson NC, AK for information)

Arizona

National Memorial Cemetery of Arizona, 23029 N. Cave Creek Road, Phoenix 85024, (602) 445–4860, Ext. 242
*Prescott National Cemetery, VA Medical Center, Prescott 86313, (602) 445–4860, Ext. 242

Arkansas

Fayetteville National Cemetery, 700 Government Ave., Fayetteville 72701, (501) 444–5051
Fort Smith National Cemetery, 522 Garland Ave. and South 6th St., Fort Smith 72901, (501) 783–5345
*Little Rock National Cemetery, 2523 Confederate Blvd., Little Rock 72206, (501) 374–8011

California

**Fort Rosecrans National Cemetery, Point Loma, P.O. Box 6237, San Diego 92106, (619) 553–2084
**Golden Gate National Cemetery, 1300 Sneath Lane, San Bruno 94066, (415) 589–7737
**Los Angeles National Cemetery, 950 South Sepulveda Blvd., Los Angeles 90049, (213) 824–4311
***Riverside National Cemetery, 22495 Van Buren Blvd., Riverside 92508, (714) 653–8417
***San Francisco National Cemetery, P.O. Box 29012, Presidio of San Francisco, San Francisco 94129, (415) 561–2008 or 2986

Colorado

Fort Logan National Cemetery, 3698 South Sheridan Blvd., Denver 80235, (303) 761–0117
Fort Lyon National Cemetery, VA Medical Center, Fort Lyon 81038, (719) 456–1260, Ext. 252

Florida

Barrancas National Cemetery, Naval Air Station, Pensacola 32508, (904) 452–3357 or 4196
*Bay Pines National Cemetery, P.O. Box 477, Bay Pines 33504, (813) 398–9426
Florida National Cemetery, P.O. Box 337, Bushnell, FL 33513, (904) 793–7740
*St. Augustine National Cemetery, 104 Marine St., St. Augustine 32084, (Call Florida NC for information)

Georgia

*Marietta National Cemetery, 500 Washington Ave., Marietta 30060, (404) 428–5631

Hawaii

***National Memorial Cemetery of the Pacific, 2177 Puowaina Dr., Honolulu 96813, (808) 551–1427

Illinois

*Alton National Cemetery, 600 Pearl St., Alton 62003, (Call Jefferson Barracks NC, MO, for information)
Camp Butler National Cemetery, R.R. #1, Springfield 62707, (217) 522–5764
Danville National Cemetery, 1900 East Main St., Danville 61832, (217) 442–8000, Ext. 391
Mound City National Cemetery, Junction-Highways 37 & 51, Mound City 62963, (Call Jefferson Barracks NC, MO, for information)
Quincy National Cemetery, 36th and Maine St., Quincy 62301, (Call Keokuk NC, IA, for information)
Rock Island National Cemetery, Rock Island Arsenal, Rock Island 61299–7090, (309) 782–6715

Indiana

*Crown Hill National Cemetery, 700 W. 38th St., Indianapolis 46208, (Call Marion NC, IN, for information)
Marion National Cemetery, VA Medical Center, Marion 46952, (317) 674–3321, Ext. 546/547
New Albany National Cemetery, 1943 Ekin Ave., New Albany 47150, (Call Zachary Taylor NC, KY, for information)

Iowa

Keokuk National Cemetery, 1701 J St., Keokuk 52632, (319) 524–1304

Kansas

*Fort Leavenworth National Cemetery, P.O. Box 1694, Leavenworth 66048, (Call Leavenworth NC, KS, for information)
Fort Scott National Cemetery, P.O. Box 917, Fort Scott 66701, (316) 223–2840
Leavenworth National Cemeteries, P.O. Box 1694 Leavenworth 66048, (913) 682–1748 or 1749

Kentucky

Camp Nelson National Cemetery, 6980 Danville Rd., Nicholasville 40356, (606) 885–5727
*Cave Hill National Cemetery, 701 Baxter Ave., Louisville 40204. (Call Zachary Taylor NC, KY, for information)
*Danville National Cemetery, 377 North First St., Danville 40442. (Call Camp Nelson NC, KY, for information)
Lebanon National Cemetery, R.R. 1, Box 616, Lebanon 40033, (502) 692–3390
*Lexington National Cemetery, 833 West Main St., Lexington 40508. (Call Camp Nelson NC, KY, for information)
Mill Springs National Cemetery, R.R. 2, P.O. Box 172, Nancy 42544. (Call Camp Nelson NC, KY, for information)
Zachary Taylor National Cemetery, 4701 Brownsboro Rd., Louisville 40207, (502) 893–3852

Louisiana

Alexandria National Cemetery, 209 Shamrock Ave., Pineville 71360, (318) 473–7588
*Baton Rouge National Cemetery, 220 North 19th St., Baton Rouge 70806. (Call Port Hudson NC, LA, for information)
Port Hudson National Cemetery, 209 Port Hickey Rd., Zachary 70791, (504) 389–0788

Maine

*Togus National Cemetery, VA Medical and Regional Office Center, Togus 04330, (207) 623–8411

Maryland

*Annapolis National Cemetery, 800 West St., Annapolis 21401. (Call Baltimore NC, MD, for information)
*Baltimore National Cemetery, 5501 Frederick Ave., Baltimore 21228, (301) 644–9697
*Loudon Park National Cemetery, 3445 Frederick Ave., Baltimore 21229. (Call Baltimore NC, MD, for information)

Massachusetts

Massachusetts National Cemetery, Bourne 02532, (508) 563–7113

Michigan

Fort Custer National Cemetery, 15501 Dickman Rd., Augusta 49012, (616) 731–4164

Minnesota

Fort Snelling National Cemetery, 7601 34th Ave., South, Minneapolis 55450, (612) 726–1127 or 1128

Mississippi

Biloxi National Cemetery, P.O. Box 4968, Biloxi 39535, (601) 388–6668
Corinth National Cemetery, 1551 Horton St., Corinth 38834, (601) 286–5782
Natchez National Cemetery, 61 Cemetery Rd., Natchez 39120, (601) 445–4981

Missouri

Jefferson Barracks National Cemetery, 101 Memorial Drive, St. Louis 63125, (314) 263–8691 or 8692
*Jefferson City National Cemetery, 1024 East McCarty St., Jefferson City 65101. (Call Jefferson Barracks, NC, MO, for information)
Springfield National Cemetery, 1702 East Seminole St., Springfield 65804, (417) 881–9499

Nebraska

Fort McPherson National Cemetery, HCO 1, Box 67, Maxwell 69151, (308) 582–4433

New Jersey

Beverly National Cemetery, R.D. 1 Bridgeboro Rd., Beverly 08010, (609) 877–5460
*Finn's Point National Cemetery, R.F.D. 3, Fort Mott Rd., Box 542, Salem 08079, (609) 935–3628, 6894 New Mexico

New Mexico

Fort Bayard National Cemetery, Bayard 88036, (Call For Bliss NC, TX, for information)
Santa Fe National Cemetery, P.O. Box 88, Santa Fe 87501, (505) 988–6400

New York

Bath National Cemetery, VA Medical Center, Bath 14810, (607) 776–2111, Ext. 293
***Calverton National Cemetery, 210 Princeton Blvd., Calverton 11933, (516) 727–5410 or 5770
*Cypress Hills National Cemetery, 625 Jamaica Ave., Brooklyn 11208, (Call Long Island NC, NY, for information)
*Long Island National Cemetery, Farmingdale, L.I. 11735, (516) 249–7300
Woodlawn National Cemetery, 1825 Davis St., Elmira 14901, (Call Bath NC, NY, for information)

North Carolina

New Bern National Cemetery, 1711 National Ave., New Bern 28560, (919) 637–2912
*Raleigh National Cemetery, 501 Rock Quarry Rd., Raleigh 27610, (919) 832–0144
Salisbury National Cemetery, 202 Government Rd., Salisbury 28144, (704) 636–2661
Wilmington National Cemetery, 2011 Market St., Wilmington 28403, (Call New Bern, NC, NC, for information)

Ohio

Dayton National Cemetery, VA Medical Center, 4100 W. Third St., Dayton 45428, (513) 262–2115

Oklahoma

Fort Gibson National Cemetery, Route 2, Box 47, Fort Gibson 74434, (918) 478–2334

Oregon

Eagle Point National Cemetery, 2763 Riley Road, Eagle Point 97524, (503) 826–2511
*Roseburg National Cemetery, VA Medical Center, Roseburg 97470. (Call (503) 440–1000 for information)
***Willamette National Cemetery 11800 S.E. Mt. Scott Blvd., P.O. Box 66147, Portland 97266, (503) 272–5250

Pennsylvania

Indiantown Gap National Cemetery, P.O. Box 187, Annville 17003, (717) 865–5254 or 5256
*Philadelphia National Cemetery, Haines Street and Limekiln Pike, Philadelphia 19138. (Call Beverly NC, NJ, for information)

Puerto Rico

Puerto Rico National Cemetery, P.O. Box 1298, Bayamon 00619, (809) 785–7281

South Carolina

Beaufort National Cemetery, 1601 Boundary St., Beaufort 29902, (803) 524–3925
Florence National Cemetery, 803 East National Cemetery Road, Florence 29501, (803) 669–8783

South Dakota

Black Hills, National Cemetery, P.O. Box 640, Sturgis 57785, (605) 347–3830
*Fort Meade National Cemetery, VA Medical Center, Fort Meade 57785. (Call Black Hills NC, SD, for information)
Hot Springs National Cemetery, VA Medical Center, Hot Springs 57747, (605) 745–4101, Ext. 230

Tennessee

Chattanooga National Cemetery, 1200 Bailey Ave., Chattanooga 37405, (615) 855–6590 or 6591
Knoxville National Cemetery, 939 Tyson Street, N.W., Knoxville 37917, (615) 673–4560
Memphis National Cemetery, 3568 Townes Ave., Memphis 38122, (901) 386–8311
Moutain Home National Cemetery, P.O. Box 8, Mountain Home 37684, (615) 929–7891
Nashville National Cemetery, 1420 Gallatin Road South, Madison 37115, (615) 327–5360

Texas

Fort Bliss National Cemetery, P.O. Box 6342, Fort Bliss 79906, (915) 541–7674
Fort Sam Houston National Cemetery, 1520 Harry Wurzbach Rd., San Antonio 78209, (512) 221–2136
Houston National Cemetery, 10410 Veterans Memorial Drive, Houston 77038, (713) 653–3112
*Kerrville National Cemetery, VA Medical Center, 3600 Memorial Blvd., Kerrville 78028, (512) 896–2020
*San Antonio National Cemetery, 517 Paso Hondo St., San Antonio 78202. (Call Fort San Houston, NC, TX, for information)

Virginia

*Alexandria National Cemetery, 1450 Wilkes St., Alexandria 22314. (Call Quantico NC, VA, for information)
*Balls Bluff National Cemetery, Leesburg 22075. (Call Culpeper NC, VA, for information)
*City Point National Cemetery, 10th Ave. and Davis St., Hopewell 23860. (Call Richmond NC, VA, for information)
*Cold Harbor National Cemetery, Rt. 156 North, Mechanicsville 23111. (Call Richmond NC, VA, for information)
Culpeper National Cemetery, 305 U.S. Ave., Culpeper 22701, (703) 825–0027
*Danville National Cemetery, 721 Lee St., Danville 24541. (Call Salisbury National Cemetery, NC, for information)
*Fort Harrison National Cemetery, 8620 Varina Road, Richmond 23231. (Call Richmond NC, VA, for information)
*Glendale National Cemetery, 301 Willis Church Rd., Richmond 23231. (Call Richmond NC, VA, for information)

Hampton National Cemetery, Cemetery Rd. at Marshall Ave., Hampton 23669, (804) 723–7014
*Hampton National Cemetery, VA Medical Center, Hampton 23669. (Call Hampton NC at Cemetery Rd. for information)
Quantico National Cemetery, P.O. Box 10, Triangle 22172, (202) 690–2217 or (703) 221–2183
*Richmond National Cemetery, 1701 Williamsburg Rd., Richmond 23231, (804) 222–1490
*Seven Pines National Cemetery, 400 East Williamsburg Rd., Sandston 23150. (Call Richmond NC, VA, for information)
*Staunton National Cemetery, 901 Richmond Ave., Staunton 24401. (Call Culpeper NC, VA, for information)
*Winchester National Cemetery, 401 National Ave., Winchester 22601. (Call Culpeper NC, VA, for information)

West Virginia

*Grafton National Cemetery, 431 Walnut St., Grafton 26354, (304) 265–2044
West Virginia National Cemetery, Rt. 2, Box 127, Pruntytown 26354. (Call Grafton NC, WV, for information)

Wisconsin

Wood National Cemetery, 5000 W. National Avenue, Building #122, Milwaukee 53295, (414) 382–5300

Alcohol or Drug Dependence Treatment

Patients may be admitted to any VA medical center for inpatient care. However, there are specialized VA Alcohol Dependence Treatment Programs and Drug Dependence Treatment Programs for inpatient and/or outpatient care in VA medical centers in the following states: (Abbreviations of type of programs are as follows: A-Alcoholism Program: D-Drug Dependence Program: A&D-both Alcohol and Drug Dependence Programs).

Alabama

700 S. 19th St., Birmingham 35233 (A), (204) 933–8101
Loop Rd., Tuscaloosa 35404 (A), (205) 553–3760

Alaska

235 E. 8th Ave., Anchorage 99501 (A), (907) 271–4555

Arizona

7th St. & Indian School Rd., Phoenix 85012 (A), (602) 277–5551
500 Hwy. 89, N., Prescott 86313 (A), (602) 445–4860
S. 6th Ave. at Ajo Way, Tucson 85723 (A & D), (602) 792–1450

Arkansas

300 E. Roosevelt Rd., Little Rock 72206 (A & D), (501) 661–1202

California

2615 E. Clinton Ave., Fresno 93703 (A), (209 225–6100
11201 Benton St., Loma Linda 92357 (A), (714) 825–7084
5901 E. 7th St., Long Beach 90822 (A & D), (213) 498–1313
Wilshire & Sawtelle Blvd., West Los Angeles 90073 (A & D), (213) 478–3711
425 S. Hill St., Los Angeles OPC 90013 (A & D), (213) 688–3843
150 Muir Rd., Martinez 94553 (A & D), (415) 228–6800
3801 Miranda Ave., Palo Alto 94304 (A & D), (415) 493–5000
3350 LaJolla Village Dr., San Diego 92161 (A & D), (714) 453–7500
4150 Clement St., San Francisco 94121 (A & D), (415) 221–4810
16111 Plummer St., Sepulveda 91343 (A & D), (213) 891–7711

Colorado

1055 Clermont St., Denver 80220 (A & D), (303) 399–8020
Hwy. 183 off Hwy. 50, Fort Lyon 81038 (A), (303) 456–1260

Connecticut

W. Spring St., West Haven 06516 (A), (203) 932–5711

District of Columbia

50 Irving St. N.W., Washington, D.C. 20422 (A & D), (202) 745–8161 or 8162

Florida

1000 Bay Pines Blvd., N., Bay Pines 33504 (A), (813) 398–6661
Archer Rd., Gainesville 32602 (A), (904) 376–1611
1201 N.W. 16th St., Miami 33125 (A & D), (305) 324–4455

Georgia

1670 Clairmont Rd., Atlanta (Decatur) 30033 (A & D), (404) 321–6111
2460 Wrightsboro Rd., Augusta 30910 (A), (404) 724–5116

Illinois

820 S. Damen Ave., Chicago, West Side 60680 (A & D), (312) 666–6500
1900 E. Main St., Danville 61832 (A), (217) 442–8000
Roosevelt Rd. & 5th Ave., Hines 60141 (A & D), (312) 343–7200
Buckley Rd., Rt. 137, North Chicago 60064 (A & D), (312) 688–1900

Indiana

1481 W. 10th St., Indianapolis 46202 (A & D), (317) 429–6741
E. 38th St., Marion 46952 (A), (317) 674–3321

Iowa

30th & Euclid, Des Moines 50310 (A), (515) 255–2173

Kansas

4801 Linwood Blvd., Kansas City 64128 (A), (816) 861–4700
4101 S. 4th St. Trafficway, Leavenworth 66048 (A), (913) 682–2000
2200 Gage Blvd., Topeka 66622 (A), (913) 272–3111

Kentucky

Leestown Rd., Lexington 40511 (A), (606) 233–4511

Louisiana

1601 Perdido St., New Orleans 70146 (A & D), (504) 568–0811
510 E. Stoner Ave., Shreveport 71130 (A), (318) 221–8411

Maine

Rt. 17, Togus 04330 (A), (207) 623–8411

Maryland

3900 Loch Raven Blvd., Baltimore 21218 (A & D), (301) 467–9932

Massachusetts

200 Springs Rd., Bedford 01730 (A & D), (617) 275–7500
150 S. Huntington Ave., Boston 01230 (A & D), (617) 232–9500
125 Lincoln St., Boston, OPC 02111 (D), (617) 223–2020
940 Belmont St., Brockton 02401 (A), (617) 583–4500
Rt. 9, Northampton 01060 (A), (413) 584–4040

Michigan

Southfield & Outer Dr., Allen Park 48101 (A & D), (313) 562–6000
5500 Armstrong Rd., Battle Creek 49015 (A & D), (616) 966–5600

Minnesota

One Veterans Drive, Minneapolis 55417 (A & D), (612) 725–6767
8th St., St. Cloud 56301 (A), (612) 252–1670

Mississippi

Pass Rd., Biloxi 39531 (A), (601) 388–5541
1500 E. Woodrow Wilson Dr., Jackson 39216 (A), (601) 362–4471

Missouri

I 270, St. Louis, 63125 (A & D), (314) 487–0400

Nebraska

2201 N. Broad Well, Grand Island 68803 (A & D), (308) 382–3660
600 S. 70th St., Lincoln 68510 (A), (402) 489–93802
4104 Woolworth Ave., Omaha 68105 (A), (402) 346–8800

Nevada

1000 Locust St., Reno 89520 (A&D), (702) 786–7200

New Hampshire

718 Smyth Rd., Manchester 03104 (A), (603) 624–4366

New Jersey

Tremont Ave., East Orange 07019 (A & D), (201) 676–1000
Knoll Croft Rd., Lyons 07939 (A), (201) 647–0180

New Mexico

2100 Ridgecrest Dr. SE., Albuquerque 87108 (A), (505) 265–1711

New York

113 Holland Ave., Albany 12208 (A & D), (518) 462–3311
130 W. Kingsbridge Rd., Bronx 10468 (A & D), (212) 584–9000
800 Poly Place, Brooklyn 11209 (A & D), (212) 836–6600
3495 Bailey Ave., Buffalo 14215 (A & D), (716) 834–9200
Fort Hill Ave., Canandaigua 14424 (A), (716) 394–2000
Albany Post Rd., Montrose 10548 (A & D), (914) 737–4400

1st Ave. at E. 24th St., New York, Manhattan 10010 (D), (212) 686–7500

North Carolina

1601 Brenner Ave., Salisbury 28144 (A), (704) 636–2351

Ohio

3200 Vine St., Cincinnati 45220 (A & D), (513) 861–3100
1000 Brecksville Rd., Cleveland, Brecksville 44141 (A & D), (216) 526–3030
1000 Brecksville Rd., Cleveland, Wade Park 44141 (A), (216) 791–3800

Oklahoma

921 N.E. 13th St., Oklahoma City 73104 (A & D), (405) 272–9876
635 W. 11th St., Tulsa OPC 74127 (D) Phone Muskogee: (918) 683–3261

Oregon

Garden Valley Blvd., Roseburg 97470 (A), (503) 672–4411
Wwy. 62, White City 97503 (A), (503) 826–2111

Pennsylvania

Blackhorse Rd., Coatesville 19320 (A & D), (215) 384–7711
University & Woodland Ave., Philadelphia 19104 (A&D), (215) 382–2400
Highland Dr., Pittsburgh 15205 (A), (412) 363–4900
University Dr., Pittsburgh 15240 (D), (412) 683–3000

Puerto Rico

GPO Box 4867, San Juan 00936 (A & D), (809) 758–7575

Rhode Island

Davis Park, Providence 02908 (A & D), (401) 273–7100

South Carolina

109 Bee St., Charleston 29403 (A), (803) 577–5011
1801 Assembly St., Columbia 29201 (A), (803) 776–4000

South Dakota

I 90/Hwy. 34, Fort Meade 57741 (A), (605) 347–2511
5th St., Hot Springs 57747 (A), (605) 745–4101

Tennessee

1030 Jefferson Ave., Memphis 28104 (A & D), (901) 523–8990
Johnson City, Mountain Home 37684 (A), (615) 926–1171
Lebanon Hwy., Murfreesboro 37130 (A), (615) 893–1360

Texas

2400 Gregg St., Big Spring 79720 (A), (915) 263–7361
4500 S. Lancaster Rd., Dallas 75216 (A & D), (214) 376–5451
2003 Holcombe Blvd., Houston 77211 (A & D), (713) 795–4411
7400 Merton Minter Blvd., San Antonio 78284 (A), (512) 696–9660
1901 S. First, Temple 76501 (A), (817) 778–4811
Memorial Dr., Waco 76703 (A), (803) 752–6581

Utah

500 Foothill Blvd., Salt Lake City 85148 (A & D), (801) 582–1565

Vermont

N Hartland Rd., White River Junction 05001 (A), (802) 295–9363

Virginia

Emancipation Dr., Hampton 23667 (A), (804) 722–9961
1201 Broadrock Rd., Richmond 23249 (D), (804) 230–9011
1970 Roanoke Blvd., Salem 24153 (A), (703) 982–2463

Washington

Gravely Lake Dr. & Veterans Dr., American Lake, Tacoma 89493 (A & D), (206) 582–8440
1660 S. Columbia Way, Seattle 98108 (A & D), (206) 762–1010
3710 S.W. U.S. Veterans Rd., Vancouver 97201 (D), (503) 222–9221
77 Wainright Drive, Walla Walla 99362 (A & D), (509) 925–5200

West Virginia

1540 Spring Valley Dr., Martinsburg 25401 (A), (304) 263–0811

Wisconsin

County Trunk E., Tomah 54660 (A), (608) 372–3971
5000 W. National Ave., Milwaukee 53295 (A & D), (414) 384–2000

Wyoming

Fort Rd., Sheridan 82801 (A), (307) 672–3473

[FR Doc. 91–1677 Filed 1–25–91; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 18
Monday, January 28, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 31, 1991, Commission Meeting.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492–6800.

Dated: January 24, 1991

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 91–2082 Filed 1–24–91; 12:49 pm]

BILLING CODE 6355–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 28, 1991.

A closed meeting will be held on Tuesday, January 29, 1991, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 29, 1991, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.
Administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Edward Pittman at (202) 272–2400.

Dated January 23, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–2101 Filed 1–24–91; 2:45 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of January 28, 1991.

An open meeting will be held on Friday, February 1, 1991, at 10:00 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Friday, February 1, 1991, at 10:00 a.m., will be:

The Commission will meet with the Financial Accounting Standards Board (FASB) to discuss matters of mutual interest and concern. The most recent meeting with the Board was held in June 1988.

Members and staff of the FASB will inform the Commission about current FASB activities and respond to questions about particular projects the FASB has under active consideration. These joint sessions form a part of the Commission's active oversight of the private sector's standard-setting activities regarding financial accounting and reporting. For further information please contact Meg Horvath at (202) 272–2358.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Edward Pittman at (202) 272–2400.

Dated: January 24, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–2112 Filed 1–24–91; 3:59 pm]

BILLING CODE 8010–01–M

federal register

Monday
January 28, 1991

Part II

Department of Health and Human Services

Office of Human Development Services

Administration for Children, Youth and Families, Runaway and Homeless Youth Program; Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 93623-911]

Administration for Children, Youth and Families, Runaway and Homeless Youth Program, Availability of Financial Assistance

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Announcement of availability of financial assistance: National Communication System for Runaway and Homeless Youth Crisis Hotline Services.

SUMMARY: The Family and Youth Services Bureau (FYSB) of the Administration for Children, Youth and Families (ACYF) announces the availability of fiscal year 1991 funds for the National Communication System for crisis hotline services under the Runaway and Homeless Youth Program.

A national competition is being held to award a grant to provide information and referral services and crisis counseling to runaway and homeless youth and their families. These services will assist runaway and homeless youth in communicating with their families and with service providers. One grant will be awarded to provide 24-hour, 7 day a week services throughout the United States, including Alaska and Hawaii.

DATES: The closing date for receipt of all applications under this announcement is: March 11, 1991.

ADDRESSES: Application receipt point: Department of Health and Human Services, HDS/Grants and Contracts Management Division, 200 Independence Avenue, SW., room 341-F.2, Hubert H. Humphrey Building, Washington, DC 20201. Attn: William J. McCarron, HDS-91-ACYF/RHYP/NCS.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela A. Johnson, ACYF/Family and Youth Services Bureau, Division of Program Operations, P.O. Box 1182, Washington, DC 20013, Telephone: (202) 245-0043 or 245-0049.

SUPPLEMENTARY INFORMATION:

Part I: Background Information

A. Scope of This Program Announcement

This program announcement solicits applications and describes the application process for the National Communication System (NCS) grant to be competitively awarded in fiscal year 1991. One grant, for approximately $750,000 per year, will be awarded to the successful applicant for a three-year project period. Funding for the second and third years of the grant will be contingent upon satisfactory performance and the availability of resources. Competition for grant awards in other FYSB program areas will be announced at later dates in the **Federal Register.**

B. Legislative Authority

This National Communication System grant is authorized by section 313(a) of the Runaway and Homeless Youth Act, 42 U.S.C. 5701 *et seq.* This Act was originally enacted as title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93-415), and, most recently amended by the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690). Regulations governing the Runaway and Homeless Youth program are published in 45 CFR part 1351.

The NCS grantee must meet the Federal share and confidentiality requirements of sections 362 and 363 of the Runaway and Homeless Youth Act. Section 362 of the Act is fully explained in section F of part I. Section 363 of the Act states that records containing the identity of individual youth pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency. (42 U.S.C. 5731).

C. Outline of Program Announcement

This program announcement consists of five parts. Part I covers the scope of this announcement and generally describes the following: The goals and objectives of the Runaway and Homeless Youth Program; the purpose and objectives of the National Communication System; and a description of the present grant.

Part II describes the service and administrative activities to be carried out by the NCS grantee.

Part III addresses the preparation of the program narrative and describes the criteria which will be used to evaluate the applications.

Part IV describes the application, review, and decision-making processes.

Part V provides detailed guidance on how to prepare and submit an application. Following part V are the appendices to be consulted and the forms to be used in the preparation of the application.

D. Background Information

The National Communication System was initiated in FY 1974 through a research and demonstration grant funded by the Department of Health, Education and Welfare, Office of Youth Development. The project was originally funded as an eight-month demonstration grant for the purpose of providing toll-free telephone services to runaway youth in the contiguous United States. This project is now specifically authorized by section 313(a) of the Runaway and Homeless Youth Act, which is administered by the Family and Youth Services Bureau within the Administration for Children, Youth and Families, Office of Human Development Services, Department of Health and Human Services.

The hotline services are presently being provided by Metro-Help, Incorporated of Chicago, Illinois, with a paid staff of ten and 200 trained volunteer telephone counselors.

The Runaway and Homeless Youth Act authorizes financial assistance to establish or strengthen community-based centers designed to address the immediate needs (e.g., outreach, temporary shelter, counseling, family counseling and aftercare services) of runaway and homeless youth and their families. As a part of this national effort, the National Communication System is designed to: (1) Provide a neutral and available channel of communication in the United States (including Alaska and Hawaii) between runaway and homeless youth and their families; (2) refer runaway and homeless youth to agencies and/or resources in their community (or immediate vicinity) for needed services or assistance; and (3) provide crisis intervention counseling to callers when needed.

This communication system is a confidential, telephone information, referral, and crisis intervention service available to runaway and homeless youth and their families. The system is required to operate 24 hours a day, 365 days a year, and must be staffed by trained individuals. It must also have the technical capacity to handle at least 250,000 calls per year.

The system is also required to have the technical capacity to assist other youth-serving agencies in delivering more effective services. This would include the ability to facilitate communication among service providers about specific cases to ensure continuity in service provision, to provide assistance in processing requests for parental consent, and facilitating discussions around mutual program and client concerns.

The overall function of the communication system is to link youth with an available resource that provides the services needed. An effective

communication system fulfills this function by:

(1) Providing a neutral and available channel of communication through which runaway and homeless youth may re-establish contract with their parents or guardians;

(2) Identifying resources available to runaway and other homeless youth in the area where the runaway is located;

(3) Identifying home-community resources to assist those young people who are contemplating running away, and who contact the communication system before they run;

(4) Providing callers with crisis intervention counseling, when appropriate, to address problems and/or issues surfaced during the telephone contact; and

(5) Providing families/guardians with a service by which they may leave messages for runaways; and providing families/guardians with advice and referrals to agencies which might assist them.

A National Communication System is needed because of the interstate nature of the runaway and homeless youth problem, and the increased vulnerability of youth to various forms of exploitation when they are on their own and exposed to unfamiliar environments.

E. Program Goals and Objectives

The goals of the National Runaway and Homeless Youth Program are: (a) To alleviate the problems of runaway and homeless youth, (b) to reunite youth with their families and to encourage the resolution of intrafamily problems through counseling and other services, (c) to strengthen family relationships and to encourage stable living conditions for youth, and (d) to help youth decide upon a future course of action.

The National Communication System funded under this program addresses the above goals on a nation-wide basis by implementing the following activities:

(1) Providing, on a 24-hour basis, 365 days a year, a neutral channel of communication for runaway and homeless youth to enable them to establish contact with their families and/or to arrange needed services;

(2) Providing access to information that will facilitate case referrals and program and resource linkages among youth-serving agencies relating to the provision of services to runaway and homeless youth and their families;

(3) Serving as a national clearinghouse for resource and referral information regarding the location of services for runaway and homeless youth and their families during the crisis period;

(4) Providing the equipment and technical expertise for the arrangement of conference calls and counseling services among runaway programs, youth, and parents or legal guardians;

(5) Publicizing the existence and availability of hotline services to runaway and homeless youth throughout the United States;

(6) Providing descriptive information on the overall national availability of information, referral, and crisis counseling services to runaway and homeless youth;

(7) Establishing formal linkages with existing centers for runaway and homeless youth and other appropriate agencies (e.g., social services, local crisis hotlines, juvenile justice agencies, and emergency care shelters) for the delivery and further development of referral sources;

(8) Coordinating services and programmatic information with other youth crisis hotlines, both Federally-funded and independent systems.

F. Available Federal Funds and Non-Federal Share

The Administration for Children, Youth and Families expects to award one new grant in the amount of approximately $750,000 for the operation of the National Communication System in FY 1991.

The grant will be awarded competitively for a project period of three years. The initial grant award will cover a 12-month budget period with renewal on an annual basis. Continued support for years two and three of the grant will depend upon the availability of funds, the grantee's satisfactory performance, and the decision that continued funding is in the best interest of the government.

Section 362(a) of the Runaway and Homeless Youth Act requires that the grantee provide a non-Federal match that equals at least 10 percent of the Federal funds requested under this announcement. For example, if the applicant requests $750,000 in Federal funds for one budget period, (line 15a of Standard Form 424), then the non-Federal share (the sum of lines 15b, 15c, 15d and 15e) would normally equal or exceed $75,000.

For the entire project period (in this case, 36 months), the maximum federal share is $2,250,000. Therefore, the total non-Federal share must meet or exceed $225,000. The non-Federal portion may be cash, in-kind contributions or grantee-donated costs (including costs of the facility, equipment or services) and must be project-related and allowable under the cost principles provided in 45 CFR parts 74 and 92, the Department's regulations for the administration of grants.

G. Eligible Applicants

States, territories, localities, private for-profit and private non-profit agencies, and coordinated networks of such agencies are eligible to apply for a grant under this program provided they are not part of the law enforcement structure or the juvenile justice system. States are defined to include any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Palau, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. (See 42 U.S.C. 5603(7) as amended by section (5) of Public Law 96–509.) Federally recognized Indian tribes are eligible to apply for grants as local units of government. Non-Federally recognized Indian tribes and Indian organizations are eligible to apply for grants as private agencies.

Part II: Responsibilities of the Grantee

Applications for funding under this program announcement should reflect a plan in the program narrative section of the application that demonstrates how they will be able to fulfill the following responsibilities:

A. Services

(1) Provide information and referral services on a 24-hour, 7 day a week basis, in a high-quality manner.

(2) Provide crisis counseling services on the same basis and in the same manner as (1) above.

(3) Assure that the resource listings will be accurate and current through regular reviews and updates.

(4) Establish formal service linkages with both Federally and non-Federally funded service providers for the purpose of making appropriate case referrals and facilitating communication between and among agencies.

(5) Identify and establish formal service linkages with non-title III community-based organizations.

(6) Establish cooperative arrangements with other local, State, and national crisis hotline services for at-risk youth and their families, when appropriate, to increase the overall capacity for serving these populations.

(7) Assure that information and referral and crisis counseling services to at-risk youth and their families is the sole activity carried out under this grant.

(8) Provide a method for addressing such issues as crank, nuisance, and/or obscene callers.

(9) Provide procedures for conducting outreach and public education activities

to increase service recognition and visibility about the System's services throughout the country.

(10) Provide technical and programmatic strategies that will be employed to minimize busy signals.

(11) Provide, in graphic form, the layout of the physical facility where the services will be provided, focusing on the telephone stations and computer terminals.

B. Administration

(1) Describe the procedures that will be used to recruit, train and supervise the staff that will "man" the telephones.

(2) Describe the procedures that will be used to ensure adequate telephone coverage with paid staff supervision on a 24-hour, 7 day a week basis.

(3) Describe the telephone system that will be used to provide the service, its capabilities and any shortcomings, including information such as the number of incoming and outgoing lines, call conferencing, and service integration with computers.

(4) Assure cost-effective use of the grant funds by taking maximum advantage of private sector resources, both cash and in-kind.

(5) Describe the procedures that will be employed to ensure the confidentiality of client records as mandated by section 363 of the Act.

(6) Assure that the staffing pattern to be used to provide the services has well-trained personnel assigned to each shift.

(7) Describe the activities and accomplishments that demonstrate that the applicant has a proven record of service.

Part III: Program Narrative and Evaluation Criteria

A. Preparation of the Program Narrative

The Program Narrative Statement should clearly address how the applicant will carry out each of the grantee responsibilities enumerated in part II above and must respond to the evaluation criteria in part III, section B below.

The evaluation criteria should be used as an outline for the development of the Program Narrative Statement of the application.

The Program Narrative Statement should be clear and concise and should not exceed 30 single-spaced pages exclusive of such necessary attachments as organization charts, resumes, and letters of agreement or support.

B. Evaluation Criteria

All applications will be reviewed and evaluated against the following criteria. The applicant should also refer to part II of this announcement for additional information on the responsibilities associated with this grant activity.

Criterion 1. Objective and Need for Assistance (15 points). The extent to which the application reflects a good understanding of the objective of the project; pinpoints any relevant physical, economic, social, financial, institutional, or other problem requiring a solution in a manner that the project is proposing to serve; demonstrates the need for the assistance and states the goals and service objectives of the project; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant; and gives a precise location of the site and the service area(s) to be served by the proposed project.

Criterion 2. Results or Benefits Expected (20 points). The extent to which the identified results and benefits to be derived from the project are consistent with the objectives of the proposal; states the numbers of clients to be served; and describes the types of services to be offered.

Criterion 3. Approach (35 points). The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project; details how the proposed work will be accomplished, including a description of the records to be kept on the number and types of calls; cites factors which might accelerate or decelerate the implementation of services; gives strategies for overcoming any possible impediments; describes and supports any unusual features of the project, such as design or technological innovations which contribute to improvements in services or reductions in time or cost, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved. The extent to which the project will take advantage of related resources to augment services. Identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results and success of the project. Explains the methodology that will be used to determine if the needs identified and discussed are being met and if the results identified are being achieved.

Criterion 4. Staff Background and Organizational Experience (20 points). The extent to which the resumes of the program leadership and key project staff (including, names, addresses, training, background, and other qualifying experience) and the organization's experience demonstrates the ability to effectively and efficiently administer a project of this size, complexity, and scope, and reflects the ability to coordinate activities with other agencies. Application also lists each organization, cooperator, consultant, or key individuals who will work on the project with a short description of the nature of their effort or contribution.

Criterion 5. Budget Appropriateness (10 points). The extent to which the project costs (overall costs, average cost per call, costs for different services) are reasonable in view of the activities to be carried out and the anticipated outcomes. The extent to which assurances are provided that the applicant can and will contribute the non-Federal share of the total project cost. (Applicants may refer to the budget information presented in Standard Form 424 and 424A and in the associated budget justification, and to the results and benefits expected as identified under Criterion 2.).

Part IV: Application Process

A. Assistance to Applicants

Interested applicants can obtain program information which may be of assistance in developing applications from the Family and Youth Services Bureau in Washington, DC (see address at the beginning of this announcement). Organizations may also receive information on application procedures from the appropriate OHDS Regional Office (see appendix D).

B. Application Requirements

To be considered for a grant under this announcement, an application must be submitted on the forms provided at the end of this announcement (see appendices A and B) and in accordance with the guidance provided herein. The application must be signed by an individual authorized to act on behalf of the applicant agency and authorized to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

C. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record-keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for HDS grant applications by OMB.

D. Notification Under Executive Order 12372

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Idaho, Kansas, Minnesota, Nebraska, Virginia, Louisiana, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nine jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them to the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application closing date to comment on proposed new or competing continuation awards. Therefore, the comment period for State processes will end on May 8, 1991, to allow time for HDS to review, consider and attempt to accommodate SPOC input. The SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to HDS, they should be addressed to: Department of Health and Human Services, HDS/Grants and Contracts Management Division, 200 Independence Avenue, SW., room 341–F.2, Hubert H. Humphrey Building, Washington, DC 20201, Attn: William J. McCarron, HDS–91–ACYF/RHYP/NCS.

A list of the Single Points of Contact for each State and Territory is included as appendix C of this announcement.

E. Availability of Forms and Other Materials

A copy of each form required to be submitted as part of an application for the grant, and instructions for completing the application, are provided in appendices A and B. Addresses of the State Single Points of Contact (SPOCs) to which applicants should submit review copies of their proposals are listed in appendix C.

The Runaway and Homeless Youth Act (42 U.S.C. 5701 *et seq.*) and the Code of Federal Regulations (CFR) title 45, part 1351, Runaway Youth Program, may be found in major public libraries and at the HDS Regional Offices listed in appendix D at the end of this announcement.

Additional copies of this announcement may be obtained from the information contact person listed at the beginning of this announcement.

F. Application Consideration

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation process against the specific criteria outlined. This review will be conducted in Washington, DC, by teams of non-Federal experts knowledgeable in the areas of youth development and/or human service programs. These experts will review the applications, apply the criteria presented in part III and assign a score to each application. To avoid conflicts of interest, the non-Federal reviewers will be persons not affiliated with any organization which submits an application under this announcement. The results of the competitive review will be analyzed by Federal staff and will be the primary factor taken into consideration by the Associate Commissioner of the Family and Youth Services Bureau who will recommend to the Commissioner, ACYF the application to be funded.

The Commissioner will make the final selection of the applicant to be funded. The Commissioner may elect not to fund any applicant having known management, fiscal or other problems or situations which make it unlikely that it would be able to provide effective services.

The successful applicant will be notified through the issuance of a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. Organizations whose application has been disapproved will be notified of that decision in writing by the Commissioner of the Administration for Children, Youth and Families.

Part V: Instructions for Assembling and Submitting the Application

A. Contents of the Application

Each copy of the application must contain the following items in the order listed:

1. Table of Contents (type on standard size plain white paper).
2. Application for Federal Assistance (Standard Form 424, REV 4–88) (page i).
3. Budget Information (Standard Form 424A, REV 4–88) (pages ii–iii).
4. Budget Justification (Type on standard size plain white paper) (pages iv–v).
5. Organizational Capability Statement (pages vi–viii).
6. Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88) (pages ix–x).
7. Certification Regarding Lobbying (page xi).
10. Program Narrative Statement (pages 1 and following; 30 pages maximum, single-spaced).
11. Supporting Documents (pages SD–1 and following; 10 pages maximum, exclusive of letters of support or agreement).

B. Instructions for Preparing Application Components

1. Table of Contents. Identify the items listed in section A above, including page numbers. Each page of the application must be numbered to facilitate the accurate recording of comments on the application during the technical review process.

2. Standard Forms 424 and 424A: Follow the instructions in appendix B.

3. Budget Justification: Provide a breakdown for major budget categories and justify significant costs. List amounts and sources of all funds, both Federal and non-Federal, that will be used to provide the services under this grant.

4. Organizational Capability Statement: Applicants should provide a brief (no more than three pages, single-spaced) description of how the applicant agency is organized and the types, quantities and costs of services it provides, including services to clients other than runaway, potential runaway, and homeless youth. Provide an organizational chart showing any

superordinate, parallel, or subordinate agencies to the specific agency that will provide the hotline services to runaway and homeless youth, and summarize the purposes, clients and overall budgets of these other agencies. If the agency has multiple sites, list these sites. If the agency is a recipient of youth drug abuse prevention funds, youth gang drug prevention funds, or transitional living funds, show how the services supported by these funds are or will be integrated with the hotline services. Discuss the experience of the applicant organization in providing information, referral and crisis counseling services to runaway and homeless youth.

5. Standard Form 424B, Certification Regarding Drug-Free Workplace, Certification Regarding Debarment, and Certification Regarding Lobbying: Self-explanatory.

6. Program Narrative Statement: Follow the guidance of part II, "Responsibilities of Grantee," and of part III, section B,"Review Criteria."

7. Supporting Documentation: Self-explanatory.

8. Duplication of Applications: Each application will be duplicated by the government in order to provide the total of six copies needed for the review panels and filing. To make copying as trouble-free and accurate as possible, the following requirements must be followed:

a. Applicants may attach *only photocopies* (no originals) of any additional materials, such as resumes, letters of support or agreement, news clippings, or descriptions of the program's participation in local, State, regional, or national coalitions of youth service agencies which would give further support to the application. *Resumes must be limited to one page.*

b. The absolute maximum for supporting documentation is 10 pages, exclusive of letters of support or agreement. Applicants may include as many letters of support or agreement as are appropriate.

c. *Note: Include only photocopies of the materials. Do not use separate covers, binders, clips, tabs, plastic inserts, pages with pockets, separately bound brochures, folded maps or charts, or any other items that cannot be processed easily on a photocopy machine with automatic feed. Do not bind, clip, or fasten in any way separate subsections of the application, including supporting documentation.*

C. Application Submission

To be considered for a grant, an applicant must submit one signed original and two copies of the grant applicant, including all attachments, to the application receipt point specified below. The original copy of the application must have original signatures, signed in *black* ink. Each copy should be stapled (back and front) in the upper left corner. All copies of a single application should be submitted in a single package.

The *Catalog of Federal Domestic Assistance* Number (93.623) and Title (Runaway and Homeless Youth Program, National Communication System) must be clearly identified on the application (SF 424, box 10).

1. Closing Date for the Receipt of Applications. The closing date for receipt of applications under this announcement is: March 11, 1991. Applications must be mailed or hand delivered to: Department of Health and Human Services, HDS/Grants and Contracts Management Division, 200 Independence Avenue, SW., room 341–F.2, Hubert H. Humphrey Building, Washington, DC 20201. Attn: William J. McCarron, HDS–90–ACYF/RHYP/NCS.

2. Deadline for Submission of Applications—a. *Deadline.* Hand delivered applications will be accepted during the normal working hours of 9 a.m. to 5:30 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

i. Received on or before the deadline date at the above address, or

ii. Sent on or before the deadline date and received by the granting agency in time to be considered during the competitive review and evaluation process under chapter I–62 of the Health and Human Services Grants Administration Manual.

(Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service as proof of timely mailing. Private metered postmarks are not acceptable as proof of timely mailing.)

b. *Late applications.* Applications which do not meet the criteria in paragraph "a" of this section are considered late applications. The Office of Human Development Services (HDS) will notify each late applicant that its application will not be considered in the current competition.

c. *Extension of deodline.* The Office of Human Development Services may extend the deadline for all applicants because of acts of God such as earthquakes, floods or hurricanes, etc., or when there is a widespread disruption of the mails. However, if HDS does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

3. *Checklist for a Complete Application.*

_____ One original application signed in black ink and dated plus two copies;

_____ A completed SPOC certification with the date of SPOC contact entered in item 16 on page 1 of SF 424;

The original and both copies of the application include the following:

_____ Table of Contents

_____ SF 424 (The original application should have the word "ORIGINAL" hand printed in bold block letters at the top of its SF 424);

_____ SF 424A;

_____ Budget Justification;

_____ Organizational Capability Statement;

_____ SF 424B;

_____ Certification Regarding Lobbying;

_____ Program Narrative Statement with maximum of 30 single-spaced pages;

_____ Supporting Documents.

(*Catalog of Federal Domestic Assistance* Number 93.623, Runaway and Homeless Youth Program.)

Dated: October 25, 1991.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Approved: December 21, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

BILLING CODE 4130-01-M

APPENDIX A: FORMS AND ASSURANCES

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

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OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

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ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ .1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

U.S. Department of Health and Human Services

Certification Regarding

Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and,

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and,

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

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GPO 942-949

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization

Authorized Signature Title Date

Note: If Disclosure Forms are required, please contact: Mr. William Sexton, Deputy Director, Grants and Contracts Management Division, room 341F, HHH Building, 200 Independence Avenue, SW., Washington, DC 20201–0001

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APPENDIX B: INSTRUCTIONS FOR COMPLETING FORMS

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

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Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

Appendix C: Executive Order 12372—State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125–0347, Tel. (205) 284–8905

Arizona

Mrs. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Tel. (602) 280–1315

Arkansas

Mr. Joseph Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–1074

California

Loreen McMahon, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, room 520, Denver, Colorado 80203, Tel. (303) 866–2156

Connecticut

Under Secretary, ATTN: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Tel. (203) 566–3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Tel. (302) 736–3326

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, room 416, District Building, 1350 Pennsylvania Avenue, NW, Washington, DC 20004, Tel. (202) 727–9111

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Tel. (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW, Atlanta, Georgia 30334, Tel. (404) 656–3855

Hawaii

Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Tel. (808) 548–3016 or 548–3085

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782–8639

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232–5610

Iowa

Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Tel. (515) 281–3725

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564–2382

Maine

State Single Point of Contact, ATTN: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Tel. (207) 289–3261

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Tel. (301) 225–4490

Massachusetts

State Single Point of Contact, ATTN: Beverly Boyle, Executive Office of Communities and Development, 100 Cambridge Street, room 1803, Boston, Massachusetts 02202, Tel. (617) 727–7001

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Tel. (517) 373–7111. Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373–6223

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Tel. (601) 960–4280

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, room 430, Truman Building, Jefferson City, Missouri 65102, Tel. (314) 751–4834

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, room 202—State Capitol, Helena, Montana 59620, Tel. (406) 444–5522

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, NV. 89710, Tel. (702) 687–4420, ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271–2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625–0803, Tel. (609) 292–6613. Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Tel. (609) 292–9025

New Mexico

Dorothy E. (Duffy) Rodriquez, Deputy Director, State Budget Division, Department of Finance & Administration, room 190, Bataan Memorial Building, Sante Fe, New Mexico 87503, Telephone (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611 Telephone (919) 733–0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Tel. (614) 466–0698

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Tel. (405) 843–9770

Oregon

Attn: Delores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street, NE, Salem, Oregon 97310, Tel. (503) 373–1998

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council,

P.O. Box 11880, Harrisburg, Pennsylvania 17108, Tel. (717) 783–3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277–2656. Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, room 477, Columbia, South Carolina 29201, Tel. (803) 734–0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Tel. (605) 773–3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Tel. (615) 741–1676

Texas

Tom Adams, Office of Budget and Planning, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, Tel. (512) 463–1778

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 538–1547

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828–3326

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH–51, Olympia, Washington 98504–4151, Tel. (206) 753–4978

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, room 553, Charleston, West Virginia 25305, Tel. (304) 348–4010

Wisconsin

James R. Klauser, Secretary, Wisconsin Department of Administration, 101 South Webster Street, GEF 2, P.O. Box 7864, Madison, Wisconsin 53707–7864, Tel. (608) 266–1741. Please direct correspondence and questions to: William C. Carey, Section Chief, Federal-State Relations Office, Wisconsin Department of Administration, (608) 266–0267

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777–7574

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Tel. (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Tel. (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Tel. (809) 774–0750

Appendix D: Regional Youth Contacts

Region I: Sue Rosen, Office of Human Development Services, John F. Kennedy Federal Building, room 2011, Boston, Massachusetts 02203 (CT, MA, ME, NH, RI, VT), (617) 565–1144

Region II: Estelle Haferling, Office of Human Development Services, 26 Federal Plaza, room 4149, New York, NY 10278 (NJ, NY, PR, VI), (212) 264–2974

Region III: David Lett, Office of Human Development Services, 3535 Market Street, Post Office Box 13714, Philadelphia, PA 19101 (DC, DE, MD, PA, VA, WV), (215) 596–1224

Region IV: Viola Brown, Office of Human Development Services, 101 Marietta Tower, suite 903, Atlanta, GA 30323 (AL, FL, GA, KY, MS, NC, SC, TN), (404) 221–2128

Region V: William Sullivan, Office of Human Development Services, 105 West Adams, 21st Floor, Chicago, IL 60603 (IL, IN, MI, MN, OH, WI), (312) 353–4241

Region VI: Ralph Rogers, Office of Human Development Services, 1200 Main Tower, 20th Floor, Dallas, TX 75202 (AR, LA, NM, OK, TX), (214) 767–6596

Region VII: Steve Nash, Office of Human Development Services, Federal Office Building, room 384, 601 East 12th Street, Kansas City, MO 64106 (IA, KS, MO, NE), (816) 426–5401

Region VIII: Bob Rease, Office of Human Development Services, Federal Office Building, 1961 Stout Street, 9th Floor, Denver, CO 80294 (CO, MT, ND, SD, UT, WY), (303) 844–3106

Region IX: Carolyn Mangrum, Office of Human Development Services, 50 United Nations Plaza, San Francisco, CA 94102 (AZ, CA, HI, NV, American Samoa, Guam, Northern Mariana Islands, Marshall Islands, Federated States of Micronesia, Palau), (415) 556–7460

Region X: Steve Ice, Office of Human Development Services, 2201 Sixth Avenue, Mail Stop RX 32, Seattle, WA 98121 (AK, ID, OR, WA), (206) 442–0482

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 314

New Drug and Abbreviated New Drug Applications; Proposed Preapproval Inspection Requirements; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 314

[Docket No. 90N-0238]

New Drug and Abbreviated New Drug Applications; Proposed Preapproval Inspection Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise its regulations governing the approval for marketing of new drugs and antibiotic drugs for human use to require the submission by applicants of new drug applications (NDA's), abbreviated new drug applications (ANDA's), and supplemental applications of an additional review copy of the chemistry and biopharmaceutics sections of their NDA's and ANDA's and of certain supplemental applications and an additional copy of the applicant's draft labeling. The additional review copy and the draft labeling will be used by FDA investigators during a preapproval inspection to audit application commitments against actual manufacturing practices used by applicants. FDA is also proposing to require the submission in the chemistry, manufacturing, and controls section of an NDA or ANDA, if not ordinarily included, certain information concerning the batches used to perform bioavailability, bioequivalence, and stability tests, the master production record for a commercial lot, and the results of component testing required under part 211. This proposed rule is intended to improve FDA's surveillance and enforcement activities with respect to NDA's, ANDA's, and supplemental applications consistent with the agency's efforts to address certain fraudulent practices found during recent investigations of the generic drugs industry.

DATES: Comments by March 29, 1991. FDA proposes that any final rule based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Food, Drug, and Cosmetic Act (the act) requires that all new drugs and antibiotics be shown to be safe and effective before marketing. In addition, an applicant is required to show that the product for which it is seeking marketing approval will be manufactured properly. FDA must deny approval of an NDA or an ANDA if the methods used in, or the facilities and controls used for, the manufacture, processing, and packaging of the drug product are inadequate to assure and preserve the product's identity, strength, quality, and purity (section 505(d) and section 505(j)(3)(A) of the act (21 U.S.C. 355(d) and 21 U.S.C. 355(j)(3)(A))). Therefore, before approval of an NDA or an ANDA, FDA must determine that the facilities involved in the manufacturing, testing, or other manipulation of the applicant's proposed drug product have been inspected and found to be in compliance with current good manufacturing practice. This determination is made by FDA's inspecting the involved facilities before approval of an NDA or an ANDA, or by relying upon results of recent on-site inspections of the applicant's facilities which covered the same class of dosage form as the applicant's proposed product. Such on-site inspections are conducted under section 510(h) of the act (21 U.S.C. 360(h)), which requires that every registered drug establishment be inspected every 2 years. FDA has promulgated current good manufacturing practice (CGMP) regulations (21 CFR part 211) that set forth comprehensive standards for drug manufacturing. The agency assesses the adequacy of the methods, facilities, and controls used by an applicant through CGMP inspections, as well as through information supplied in the applicant's NDA or ANDA.

Recent inspectional experience with the generic drugs industry revealed discrepancies between representations made in some ANDA's concerning manufacturing procedures, batch size, and formulations of batches used to conduct bioequivalence studies and the actual practices of the applicants. In addition, there were instances in which the stability data submitted to the agency by some applicants were fabricated. To deter future similar incidents in NDA's or ANDA's, and to assure early detection should such incidents occur, the agency has concluded that additional measures are necessary.

First, FDA has expanded its preapproval inspection program beyond the statutorily required biennial on-site inspection obligation to include additional criteria for triggering inspections. Under this expanded preapproval inspection program, FDA may reinspect firms who have been inspected within the previous 2 years and are seeking approval for drug products that: (1) Are difficult to manufacture and thus difficult to replicate; (2) have a narrow therapeutic range, such as drugs used to treat epilepsy, asthma, high blood pressure, and heart diseases; (3) are among the top 200 most prescribed drugs, for which many generic firms will be competing to be the first with a generic verison on the market; (4) are new chemical entities; or (5) represent a new dosage form product for the applicant. FDA may also inspect applicants who have a history of noncompliance with CGMP's and new applicants, i.e., those applicants who have not previously submitted an NDA or an ANDA or who currently are manufacturers of over-the-counter drug products and are seeking approval of their first prescription drug product.

Second, FDA has concluded that preapproval inspections should routinely include an audit of the manufacturing and controls records concerning the batches used to conduct bioavailability, bioequivalence, and stability studies. Recent agency investigations of generic firms showed a number of instances where the batches of a drug product actually manufactured and used to conduct a bioequivalence study differed from batches of the drug represented in the applicant's ANDA and subsequently marketed. In some cases, batches were smaller, manufacturing procedures varied, or formulations differed from those provided for in the ANDA. Adequate and accurate information in an application about the batches of a drug product used to conduct bioavailability, bioequivalence, and stability studies is crucial to the demonstration of the bioavailability of a drug product in an NDA, to the demonstration of the bioequivalence of a generic drug product to the innovator's product, and to the demonstration of stability of any product.

Finally, FDA has concluded that its investigators must have, at the time of a preapproval inspection, information about an applicant's manufacturing practices ordinarily included in the applicant's NDA or ANDA and a copy of the applicant's draft labeling required to be submitted in the applicant's NDA or ANDA to audit application

commitments against actual manufacturing practices. Currently, FDA investigators do not normally have access to information from NDA's and ANDA's before or during a preapproval inspection unless the investigator uses the applicant's own copy of its NDA or ANDA. Although applicants submit to FDA two copies of an NDA and ANDA and four copies of draft labeling, both copies of the NDA and ANDA and the four copies of draft labeling are still being used by FDA reviewers at the time of a preapproval inspection. Without an explicit requirement of access to information in an applicant's pending NDA or ANDA, FDA Investigators have not been able to audit application commitments against actual manufacturing practices. Thus, preapproval inspections have generally been limited to determining an applicant's compliance with the CGMP regulations for the particular class of dosage form for which the applicant is seeking approval. To permit FDA investigators to audit application commitments against actual manufacturing practices, FDA is proposing to require that the chemistry, manufacturing, and controls and the human pharmacokinetics and bioavailability technical sections of an applicant's NDA or ANDA, including all amendments to these sections, and a copy of the applicant's draft labeling be provided to its investigators for use during a preapproval inspection. To guard against the possibility that the applicant's own copy of its NDA or ANDA may differ from what has been submitted to FDA, the agency has concluded that the information should be provided to FDA who will then provide it to its investigators.

FDA considered, but rejected, utilizing its own resources to prepare an additional copy of the chemistry and biopharmaceutics technical sections of an application or supplement, and of the applicant's draft labeling, for submission to its investigators. For personnel of FDA's reviewing divisions to copy the two technical sections, including all amendments, for each NDA or ANDA filed with FDA, certain supplements, and the applicant's draft labeling would consume both resources and time and lead to delays in both preapproval inspections and completion of reviews of NDA's, ANDA's, and supplements. Therefore, FDA is proposing that an applicant prepare an additional copy of the chemistry and biopharmaceutics technical sections of its NDA or ANDA and submit the copy to FDA with the original application submission. An applicant would also be required to submit to FDA an additional copy of each amendment to these sections, an additional copy of its draft labeling, and an additional copy of certain supplements that require prior approval. FDA believes submission of this information will be a minimal burden on applicants and will result in expediting and improving both preapproval inspections and application reviews.

II. Provisions of This Proposal

The agency proposes to amend §§ 314.50 and 314.55 (21 CFR 314.50 and 314.55), under subpart B, to require applicants of NDA's and ANDA's to submit to FDA an additional copy of the chemistry, manufacturing, and controls and the human pharmacokinetics and bioavailability sections of their NDA's and ANDA's and an additional copy of draft labeling. In addition, certain information about the manufacture of the batches of a drug product used to conduct bioavailability or bioequivalence studies and stability studies must be evaluated by FDA's reviewers to assure the bioavailability or bioequivalence characteristics of the drug product and the product's stability. FDA must also be assured that the batches used to perform bioavailability, bioequivalence, and stability tests necessary for approval do not differ from batches of the drug product represented in the applicant's NDA or ANDA and subsequently marketed. Thus, the agency proposes to amend § 314.50 by redesignating § 314.50(d)(1)(ii) as § 314.50(d)(1)(ii)(*a*) and by adding new § 314.50(d)(1)(ii)(*b*), and § 314.50(d)(1)(ii)(*c*) to require that an applicant include in the chemistry, manufacturing, and controls section of its application, if not ordinarily included, the following information:

(1) The production record for the applicant's batches used to conduct bioavailability or bioequivalence studies and stability studies;

(2) The master production record to be used for the manufacture of a commercial lot of the drug product;

(3) The specifications and test procedures for the components used in production of the batches used to conduct bioavailability or bioequivalence studies and of the batches used to conduct stability studies;

(4) The specifications and test procedures for the finished drug product from the batches used to conduct the bioavailability or bioequivalence studies and stability studies;

(5) The names and addresses of the sources of the components used in the manufacture of the drug product, the ingredients contained in the finished drug product, and the container closure system for the drug product; and

(6) The name and address of each contract facility involved in the manufacture, processing, packaging, or testing of the drug product and identification of the operation performed by each contract facility.

Section 211.84 of the CGMP regulations requires, in part, testing of each lot of the components to be used in the manufacture of a drug product to assure their identity, strength, quality, and purity and to assure that only suitable components are used. Section 211.165 of the CGMP regulations requires testing of each batch of a drug product prior to release for marketing to assure conformance to final specifications for the drug product, including the identity and strength of each active ingredient. Existing regulations under 21 CFR part 314 do not require that the test results be submitted to FDA. The agency has determined that these test results are significant because they identify components and characterize the components and the drug product. FDA considers this key information in its determination whether new drug products meet the statutory requirements for approval. For example, in its generic drug investigation, the agency has used these test results, located in the firm's records, to detect fraud in the formulation of batches used to conduct bioequivalence studies. Therefore, FDA proposes to further revise § 314.50(d)(1)(ii) by adding a new paragraph (d)(1)(ii)(*d*) that would require an applicant to include in its NDA or ANDA submission the component and drug product test results obtained under §§ 211.84 and 211.165, respectively, for the batches used to conduct bioavailability or bioequivalence studies and stability studies.

Section 314.50(e)(2)(ii) requires an applicant to submit four copies of draft labeling. To provide its investigators with a copy of the applicant's draft labeling, FDA proposes to revise § 314.50(e)(2)(ii) to require the submission of an additional copy.

Regulations at 21 CFR 314.420 permit information about facilities (primarily for foreign establishments), processes, and articles used in the manufacturing, processing, packaging, and storing of human drugs to be provided to FDA in a drug master file (DMF) and incorporated into an NDA and ANDA by reference to the DMF. Information in a DMF that is relevant to a preapproval inspection would be provided by FDA to the investigators. No additional regulations are necessary to accomplish this.

Section 314.70(b) (21 CFR 314.70(b)) describes the changes in the conditions in an approved NDA and ANDA that require the applicant to submit a supplemental NDA or ANDA and obtain FDA approval before making the change. Some of these changes may require a preapproval inspection of the involved facilities. For example, a supplemental NDA or ANDA providing for a different manufacturer, testing laboratory, supplier of bulk active ingredients, new dosage form, new facilities, or significantly changed facilities may require a preapproval inspection. FDA has determined that its investigators also need the information contained in these supplemental applications to conduct preapproval inspections. Therefore, FDA proposes to revise § 314.71 to require applicants to submit an additional copy of each supplement that requires prior FDA approval under § 314.70 (b)(1) or (b)(2). An applicant would not submit an additional copy of labeling supplements required under § 314.70(b)(3). This is because FDA does not usually conduct a preapproval inspection prior to approval of these labeling supplements.

FDA notes that, before 1985, with a few exceptions, applicants submitted three copies of a complete application. In the Federal Register of February 22, 1985 (50 FR 7452), FDA published revised regulations in 21 CFR part 314 governing the approval for marketing of new drugs and antibiotic drugs for human use. Those regulations, in part, reduced to two the number of copies of an application, an archival copy and a review copy, in an attempt to reduce the paperwork burden for applicants. In light of recent inspectional experiences with the generic drugs industry, as discussed above, FDA has reevaluated its preapproval inspection program and has determined that information about the manufacture of the drug product for which the applicant is seeking approval and the batches of the drug product used in conducting bioavailability and bioequivalence studies and stability studies must be provided to investigators who conduct preapproval inspections to detect certain fraudulent practices. This proposal would therefore require applicants to submit to FDA a third copy of the chemistry, manufacturing, and controls section and the human pharmacokinetics and bioavailability section of any of their NDA's or ANDA's, including all amendments to these sections, and a third copy of certain supplements.

III. Economic Impact

FDA has analyzed the economic impact of the proposed regulation in accordance with Executive Order 12291, and has determined that the proposed regulation does not constitute a major rule. Furthermore, the agency certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, and, therefore, does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354).

FDA estimates the nationwide annual copying cost of this regulation to be $155,780 for all of the firms submitting NDA's and ANDA's. The 150 firms submitting ANDA's would be expected to incur approximately $85,000 in costs for an average annual cost per firm of $570. The 100 firms submitting NDA's would be expected to incur about $70,000 in costs for an average annual cost per firm of $700. These costs should have a negligible impact on the firms involved. A copy of the agency's assessment of economic impact is on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act of 1980

This proposed rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: New Drug and Abbreviated New Drug Application Preapproval Inspection Requirements.

Description: The information requirements contained in the proposed rule would collect information from persons who must obtain FDA approval prior to marketing a new drug. These persons must submit certain manufacturing and controls information, information about the batches of a drug product used to conduct bioavailability and bioequivalence studies and stability studies, and draft labeling. FDA will use the information during a preapproval inspection to audit application commitments against actual manufacturing practices.

Description of Respondents: Businesses.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response (hour)	Annual burden hours
314.50(d)(3)(1)(ii)(d)	1,230	1	0.50	615
314.50(e)(2)(ii)	1,230	1	0.25	308
314.50(h)(2)	560	1	1.40	785
314.55(e)(2)	2,260	1	0.858	1,940
314.71(b)	5,080	1	0.413	2,096
Total				5,744

The agency has submitted a copy of this proposed rule to OMB for its review of these information collections. Interested persons are requested to send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to FDA's Dockets Management Branch (address above), and to the Office of Information and Regulatory Affairs, OMB, Rm. 3208, New Executive Office

Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

VI. Request for Comments

Interested persons may, on or before March 29, 1991, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 314 be amended as follows:

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG OR AN ANTIBIOTIC DRUG

1. The authority citation for 21 CFR Part 314 is revised to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 701, 704, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 374, 376).

2. Section 314.50 is amended by revising the introductory text; by redesignating existing paragraph (d)(1)(ii) as paragraph (d)(1)(ii)(*a*); by adding new paragraphs (d)(1)(ii)(*b*), (d)(1)(ii)(*c*), and (d)(1)(ii)(*d*); and by revising paragraphs (e)(2)(ii) and (h)(2) to read as follows:

§ 314.50 Content and format of an application.

Applications, including abbreviated applications, and supplements to approved applications are required to be submitted in the form and contain information, as appropriate for the particular submission, required under this section. Except for certain supplements, three copies of the application are required: an archival copy and two review copies. An application for a new chemical entity will generally contain an application form, an index, a summary, five or six technical sections, case report tabulations of patient data, case report forms, drug samples, and labeling. Other applications will generally contain only some of those items, and information will be limited to that needed to support the particular submission. These include an application for a duplicate of a marketed drug product (such as a "paper NDA," which relies primarily on published literature to provide substantial evidence of effectiveness and adequate scientific evidence of safety for the claimed indications), an abbreviated application, an amendment, and a supplement. The application is required to contain reports of all investigations of the drug product sponsored by the applicant, and all other information about the drug pertinent to an evaluation of the application that is received or otherwise obtained by the applicant from any source. The Food and Drug Administration will maintain guidelines on the format and content of applications to assist applicants in their preparation.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(*b*) Unless provided by paragraph (d)(1)(ii)(*a*) of this section, for each batch of the drug product used to conduct a bioavailability, bioequivalence, or stability study: the batch production record; the specifications and test procedures for each component and for the drug product; the names and addresses of the sources of the components and of the container closure system for the drug product; and name and address of each contract facility involved in the manufacture, processing, packaging, or testing of the drug product and identification of the operation performed by each contract facility.

(*c*) The master production record to be used for the manufacture of a commercial lot of the drug product.

(*d*) The results of any test performed on the components used in the manufacture of the drug product as required by § 211.84(d) of this chapter and on the drug product as required by § 211.165 of this chapter.

* * * * *

(e) * * *

(2) * * *

(ii) Copies of the label and all labeling for the drug product (5 copies of draft labeling or 12 copies of final printed labeling).

* * * * *

(h) * * *

(2) The applicant shall submit two review copies of the application. One copy shall contain the technical sections described in paragraphs (d)(1) through (d)(6) of this section as required. The other copy shall contain the technical sections described in paragraphs (d)(1) and (d)(3) of this section. Each of the technical sections (described in paragraphs (d)(1) through (d)(6) of this section) in the review copies is required to be separately bound with a copy of the application form required under paragraph (a) of this section and a copy of the summary required under paragraph (c) of this section. The applicant may obtain from FDA sufficient folders to bind the archival and review copies of the application.

* * * * *

3. Section 314.55 is amended by revising paragraph (e)(2) to read as follows:

§ 314.55 Abbreviated application.

* * * * *

(e) * * *

(2) The applicant shall submit two review copies that contain the technical sections described in § 314.50 (d)(1) and (d)(3). Each of the technical sections in the review copies is required to be separately bound with a copy of the application form required under § 314.50(a).

* * * * *

4. Section 314.71 is amended by revising paragraph (b) to read as follows:

§ 314.71 Procedures for submission of a supplement to an approved application.

* * * * *

(b) All procedures and actions that apply to an application under § 314.50 and an abbreviated application under § 314.55 also apply to supplements, except that the information required in the supplement is limited to that needed to support the change. A supplement is required to contain an archival copy and a review copy that include an application form and appropriate technical sections, samples, and labeling, except that a supplement described in § 314.70(b) (1) or (b)(2) is required to contain an archival copy and two review copies.

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Dated: November 10, 1990.

James S. Benson,

Deputy Commissioner of Food and Drugs.

[FR Doc. 91-1900 Filed 1-25-91; 8:45 am]

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Monday
Januarv 28, 1991

Part IV

Department of Defense

Department of the Army

32 CFR Part 626

Biological Defense Safety Program; Final Rule

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 626

Biological Defense Safety Program—(AR 385-69)

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army (DA) acting as executive agent for the Department of Defense announces the establishment of the Army Biological Defense Safety Program for all aspects of the Biological Defense Program (BDP) as 32 CFR part 626. This program provides new DA policy and implements the Centers for Disease Control (CDC)—National Institutes of Health (NIH) Guidelines on Biosafety in Microbiological and Biomedical Laboratories, Department of Defense (DoD) and Department of the Army policy statements, and other Federal regulations. This program assigns responsibility for safety studies and reviews of biological defense research, development, test and evaluation (RDT&E) projects, and prescribes safety precautions and procedures applicable to DoD contracted operations.

EFFECTIVE DATE: February 27, 1991.

FOR FURTHER INFORMATION CONTACT: If you wish to comment or obtain further information contact HQDA(DACS-SF), Mr. William Wortley, room: 2C717, Pentagon, Washington, DC 20310-0200, (703) 695-7291.

SUPPLEMENTARY INFORMATION: Through the U.S. Army Biological Defense Program, the Department of the Army serves as the executive agent for the Department of Defense Biological Defense Research, Development, Test, and Evaluation Program (RDT&E). As the executive agent, DA supports RDT&E efforts to maintain and develop defensive measures and materiel to meet potential biological warfare threats. To develop these measures and materiel, it is necessary to use biological agents during the conduct of the RDT&E. This document, draft Army Regulation 385-69, was developed in coordination with the biological defense community and fully staffed and coordinated with subject matter experts, the Army Staff, and applicable major Army commands. In addition, an independent (non-DOD) review was conducted by the Occupational Safety and Health Administration, U.S. Department of Labor. Army-wide implementation of the Biological Defense Safety Program is authorized based on the policies and standards contained in the cited authority and references.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as nonmajor. The effect of the final rule on the economy will be less than $100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 626

Safety, Occupational safety and health, Biological, Defense.

Accordingly, 32 CFR part 626 is added to read as follows:

PART 626—BIOLOGICAL DEFENSE SAFETY PROGRAM

Subpart A—Introduction

Sec.

Subpart B—Biological Defense Safety Policy and Procedures

Subpart C—BDP Contractors

Subpart D—BDP Studies and Reviews

Authority: 5 U.S.C., 10 U.S.C., 42 U.S.C., 49 U.S.C., 50 U.S.C., Pub. L. 101-510, National Defense Authorization Act for 1991.

Subpart A—Introduction

§ 626.1 Purpose.

(a) This regulation prescribes Department of the Army (DA) safety policy, responsibilities, and procedures for biological defense research, development, test, and evaluation (RDT&E) operations.

(b) Department of the Army Pamphlet 385-69 prescribes the minimum safety criteria and technical requirement for the Army biological defense safety program and will be used in conjunction with this regulation to establish and implement the biological defense safety program.

§ 626.2 References.

Required and related publications are listed in appendix A to this part.

§ 626.3 Explanation of terms.

Abbreviations and special terms used in this regulation are explained in the glossary.

§ 626.4 Responsibilities.

(a) The Assistant Secretary of the Army (Installations, Logistics and Environment) (ASA(IL&E)) establishes overall Army Occupational Safety and Health policy and maintains oversight of the following:

(1) All aspects of environment, safety, and occupational health statutory compliance.

(2) Safe biological defense RDT&E operations.

(b) The Assistant Secretary of the Army (Research, Development, and Acquisition) (ASA(RDA)). Establishes overall Army RDA policy and will—

(1) Integrate, coordinate, and manage Army efforts to increase effectiveness of biological defense technologies, and materiel research, development and acquisition program.

(2) Review and validate all future biological defense RDT&E facility construction or renovation requirements prior to any organization initiating these construction or renovation programs.

(c) The Director of Army Safety (DASAF), Office of the Chief of Staff, Army (OCSA), administers and directs the Army Safety Program as specified in AR 385-10. The DASAF will—

(1) Manage Armywide safety policy and guidance for biological defense RDT&E programs as a part of the Army Safety Program.

(2) Approve all actions that imply or establish a DA safety position for biological defense RDT&E covered by this regulation.

(3) Represent DA on all biological defense RDT&E safety studies and reviews.

(4) Develop safety policy and standards for biological defense RDT&E operations.

(5) Develop Army level safety program guidance.

(6) Conduct an annual management review of the biological defense occupational safety and health programs of commands with Biological Defense Program (BDP) operations and responsibilities, to ensure consistency with DA policy.

(7) Conduct biological defense safety evaluation visits, and advise the Army Staff (ARSTAF) of concerns, trends, and needed corrective actions.

(8) Develop policies and provide guidance for the execution of the Biological Defense Safety Program.

(9) Conduct the review of general construction plans for biological defense RDT&E facilities.

(10) Establish procedures for the investigation of biological defense related mishaps, referenced in AR 385-40.

(11) Serve as proponent for Army biological safety training.

(d) The Commanding General, U.S. Army Corps of Engineers (CG, USACE) will establish procedures to ensure that biological defense RDT&E facilities are designed, constructed and acquired in accordance with current Federal, State, Department of Defense (DOD), and DA regulatory standards.

(e) The Surgeon General (TSG) will—

(1) Develop occupational health standards and medical support policies for the BDP.

(2) Provide advice and guidance for health hazard assessments and medical surveillance in accordance with current directives and policies.

(3) Provide medical guidance for the selection of appropriate protective equipment for use in the BDP.

(4) Provide a representative to each BDP special safety study group.

(5) Provide occupational health support to the DASAF for conduct of annual management reviews (§ 626.4(c)(6)).

(f) The Commander, U.S. Army Medical Research and Development Command (USAMRDC), in addition to MACOM responsibilities, will—

(1) Conduct safety site assistance visits of BDP Army research facilities, on a periodic basis as determined necessary by the DASAF, and advise the ARSTAF of findings and recommendations.

(2) Provide a group member for all other studies and reviews.

(3) Assist HQDA in their oversight role of monitoring biological defense RDT&E activities throughout the Army, and advise HQDA on concerns, trends, and corrective actions required.

(4) Assist the DASAF in performing biological defense safety program mishap investigations.

(5) Assist the DASAF in developing biological defense safety policy, and recommend changes to policies and procedures.

(6) Serve as the proponent for the BDP Special Immunization Program.

(g) MACOM Commanders with a BDP mission will:

(1) Establish and operate an effective safety program.

(2) Publishing a command program to implement Headquarters, Department of Army (HQDA) biological safety standards and to identify responsibilities for all subordinate organizations that maintain, store, handle, use, transport, or dispose of etiologic agents used in the BDP.

(3) Exercise supervision of subordinate organizations to ensure that an effective safety program, which complies with this regulation, DA Pam 385-BIO and AR 385-10 is implemented and maintained.

(4) Ensure that biological defense safety programs comply with the provisions of this regulation and DA Pam 385-BIO.

(5) Appoint a safety and health manager in accordance with AR 385-10, who is occupationally qualified under Office of Personnel Management Standards and has special knowledge of biological safety and health requirements. This safety and health manager should be the single point of contact for all aspects of the BDP Safety Program.

(6) Review standing operating procedures (SOPs) for biological defense RDT&E operations.

(7) Develop and submit general construction plans for approval through command channels to HQDA, Army Safety Office, DACS-SF, WASH DC 20310-0200.

(8) Approve or disapprove individual access to etiologic agent restricted areas.

(9) Implement a Chemical Hygiene Plan, as appropriate, which meets the requirement of 29 CFR 1910.1450.

Subpart B—Biological Defense Safety Policy and Procedures

§ 626.5 Policy.

(a) This regulation applies to BDP RDT&E operations involving etiologic agents being investigated by DA for biological defense purposes.

(b) Specific biological safety requirements and guidance are contained in DA Pam 385-69.

§ 626.6 Mishap reporting and investigation.

Biological defense RDT&E related mishaps will be reported and investigated in accordance with AR 385-40 and AR 40-400. Med 16 Report will be used to report only personnel exposure or illness related to the BDP.

§ 626.7 Administrative and work practice controls.

(a) The cardinal principle for safety in BDP operations is to minimize the potential exposure of personnel to etiologic agents. In practice, this means conducting RDT&E activities using the appropriate biosafety level facilities, equipment and procedures, and requiring only the minimum number of appropriately trained personnel, the minimum period of time, and minimum amount of the material, consistent with program objectives and safe operations.

(b) Open air testing under the BDP is restricted to use of simulants only, unless it is determined by the Secretary of Defense that testing is necessary in the interest of national security in accordance with Pub. L. 91-121. Also, for RDT&E involving the evaluation of protective equipment or detection devices, the least hazardous etiologic agent consistent with mission objectives will be employed. All testing of such equipment employing etiologic agents will be in appropriate biosafety level containment laboratories.

(c) A hazard analysis, to determine safety precautions, necessary personnel protection and engineering features and procedures to prevent exposure, will be completed for:

(1) All BDP operations involving etiologic agents.

(2) A change in process, or control measures that may result in increased potential contact or concentrations of biological material.

(d) An SOP is required for all biological defense RDT&E operations. The SOP will:

(1) Describe, in detail, all necessary operational and safety requirements.

(2) Describe, in detail, actions to be taken in the event of mishap.

(3) Describe, in detail, the location of required emergency response equipment.

(4) Be available at the work site.

(5) Forbid concurrent unrelated work during biological defense RDT&E operations within a laboratory area or suite.

(6) Be approved by the Commander or the Safety Officer and signed by workers involved in the operation.

(7) Provide name and telephone number of responsible personnel.

(e) Training and information. All personnel who work directly with etiologic agents in the BDP, or who otherwise have a potential for exposure, will receive appropriate training to enable them to work safely and to understand the relative significance of agent exposures.

(1) This training will include signs and symptoms of etiologic agent exposure, information on sources of exposure, possible adverse health affects, and practices and controls used to limit exposures. The environmental and medical monitoring procedures in use, their purposes, worker responsibilities in health protection programs, and handling of laboratory mishaps will also be presented.

(2) Workers will be required to demonstrate proficiency prior to performing potentially hazardous operations. Refresher training will be repeated at least annually.

(3) Initial and refresher training will be documented and kept on file as a permanent record.

(f) Medical Surveillance. A medical surveillance program (ref DODI 6055.5–M and AR 40–5) will be established, in accordance with the specific guidance contained in applicable medical publications, for all personnel (military and civilian) who may be potentially exposed to etiologic agents.

(1) Placement, periodic medical surveillance examinations and termination examinations shall be conducted for each worker, to establish a baseline health record and to provide periodic job-related assessments of worker's health status. Preassignment, periodic and termination health assessments, will include a work history, a medical history, physical examinations, indicated clinical laboratory studies and, when available, examinations or tests specific to the etiologic agent in question.

(2) Medical officers responsible for treating BDP etiologic agent exposures and conducting medical surveillance for BDP workers shall receive specialized training on the unique hazards of etiologic agents, and recommended medical therapies.

(3) Special immunizations will be given to personnel handling specific etiologic agents as required.

(4) Records documenting the above will be maintained as a permanent bases.

(g) Emergency Preparedness. (1) SOPs will address emergency procedures related to a mishap involving BDP etiologic agents. Notification and evacuation procedures will be covered in detail, as well as, measures to contain the contamination.

(2) Local, regional, state or federal emergency support/coordinating agencies, such as law enforcement, fire departments, health departments and governments will be informed of BDP activities and the appropriate support necessary, to include any equipment and training necessary, to provide effective emergency response and ensure compliance with community "right-to-know" statutes and regulations. Agreements with external agencies must be formalized.

(3) In the event of a mishap with a BDP etiologic agent from appropriate laboratory biocontainment that may result in personnel exposure, approved emergency procedures will be immediately initiated to effectively protect personnel and the environment and to constrain spread of contamination. All personnel except those responsible for emergency operations will evacuate the immediate area.

(4) Special medical surveillance will be started as soon as possible for all workers present in the potentially affected area at the time of the mishap.

(h) Labeling and posting of hazards. (1) Hazard warning signs which incorporate the universal biohazard symbol will be posted on the access door to the work area, see DA PAM 385–69, paragraph 3–5a(1). The sign will be covered or removed if the area has been decontaminated and certified as such by the organizational safety officer.

(2) For areas irradiated with ultraviolet light, a caution sign reading "Ultraviolet Light, Wear Eye Protection" will be posted.

(i) Disposal controls. Etiologic agents used in the BDP must be decontaminated before disposal of infectious or hazardous wastes and must not violate any Army, Federal, state, local, or host nation environmental standards. Procedures for decontamination are described in DA Pam 385–69.

(1) The preferred methods of decontamination of etiologic agents are autoclaving or chemical inactivation with appropriate biocidal solutions (See chap 5, DA Pam 385–BIO).

(2) Etiologic agents awaiting decontamination will be contained at the appropriate biosafety level.

(j) Maintenance controls. A continuing program for equipment and facility maintenance will be implemented for each BDP operation.

(k) Protective Equipment. Guidance concerning protective equipment is contained in DA Pam 385–69.

§ 626.8 Etiologic agent containment.

(a) Facility engineering controls and appropriate biocontainment equipment will be used, in conjunction with special practices and procedures, to minimize potential exposure of personnel and the environment to etiologic agents used in BDP operations. Engineering and equipment controls will be implemented to the maximum extent feasible and verified as effective. Protective clothing will not be used in lieu of engineering controls. Engineering controls will be considered the prime means of biocontainment with personal protective equipment such as respirators to be used only after feasible engineering controls have been shown as not controlling the environment fully.

(b) Before beginning any etiologic agent operation, a determination will be made that the hazards associated with the operation are under positive control as defined in the applicable SOP, and that the operation is in compliance with the criteria of this regulation and DA Pam 385–BIO.

§ 626.9 Inspections.

(a) Biosafety laboratories require periodic (at least quarterly for BL–1 and BL–2 and monthly for BL–3 and BL–4 laboratories), inspections by safety and health professionals. Safety officials will document the inspections, assure that deviations from safe practices are recorded, and that recommended corrective actions are accomplished. If deviations are life threatening, this area will be restricted until corrective actions are accomplished. New RDT&E efforts involving etiologic agents will be evaluated and inspected prior to start-up to assure equipment, facilities, employee training, and procedures are prepared and adequate for the introduction of BDP material. Safety officials will maintain such records for 3 years and will review the records at least annually for trends requiring corrective actions.

(b) Supervisors shall inspect work areas frequently (at least weekly) and effect corrective actions promptly.

§ 626.10 Transportation of BDP etiologic agents.

(a) Etiologic agents utilized in the BDP shall be packed, labeled, marked, prepared for shipment, and shipped in accordance with applicable Federal, State and local laws and regulations, to include 42 CFR part 72, "Interstate Shipment of Etiologic Agents," 49 CFR parts 172 and 173 (Department of Transportation), 9 CFR part 122 (USDA Restricted Animal Pathogens) and DA Pam 385–69.

(b) Etiologic agents shipped to support the BDP will use secondary shipping containers which are sealed with a crimped lid (see app D, DA Pam 385–69).

(c) BDP organizations and contractors who provide etiologic agents, will ship all etiologic agents by private carrier. The U.S. Postal Service will not be used for the transportation of etiologic agents required for the BDP.

(d) In addition to the above requirements, shipments of BL–4 etiologic agents will be hand carried by government courier or under the immediate supervision of a responsible party who is knowledgeable about the potential hazards of the materials and who will monitor all aspects of the shipment ensuring that required transfers have been completed and documented and final receipt has been accomplished and acknowledged.

(e) Audit trials of all BDP etiologic agent shipments and receipts of such agents shall be established and maintained for at least 3 years. Such audit trails shall identify date of shipment, carrier, addresses of the shipper/recipient, and agent(s) shipped/received.

§ 626.11 General construction plans.

General construction plans, for BDP facilities as well as for changes in utilization of facilities will be submitted through the chain of command to HQDA, Army Safety Office, DACS–SF, WASH DC 20310–0200 for safety review and approval. Plans shall be forwarded for new construction or major modifications of facilities used in the BDP. The facility system safety requirements of AR 385–16 and AR 415–15 shall be followed. Simultaneously, RDT&E requirements that necessitate such renovation, modification or construction shall be submitted through the chain of command to HQDA, OASA(RDA), SARD–ZT, WASH DC 20310–0103 for review and approval.

§ 626.12 Maximum credible event (MCE).

(a) Because of the complexity of the RDT&E conducted in the BDP it is appropriate to consider the range of potential consequences that could be associated with a mishap. MCE is a risk analysis technique which provides a useful tool for estimating the effectiveness of existing safeguards. The potential for events must be carefully analyzed to determine the MCE that could occur and cause a mishap. All hazard analysis and general construction plans, § 626.11 of this publication, will include a consideration of a MCE.

(b) The term MCE, as used herein, is analogous to a realistic worst case analysis. The best available credible information will be applied to estimate the results of various MCEs using assumptions that yield the potential for more severe consequences, as opposed to assumptions that operational and safety controls will always perform as designed. The rule of reason will be applied to confine the MCE to realistic or believable occurrences.

(c) When considering an MCE, it is appropriate to consider the redundancy of safety systems engineered into the facilities, and the equipment used, depending on containment level required to make them as fail-safe as practical. The MCE for containment laboratories must be considered in terms of physical containment for both toxins and biological organisms. Therefore, both toxin and biological MCEs will be considered.

(d) Because aerosols of etiologic agents represent the most significant potential hazard for exposure of workers or the environment, a hazard analysis (to include MCE) of proposed BDP RDT&E activities will be performed to determine the procedures, engineering controls and facility design required to mitigate potential significant hazards.

§ 626.13 Controls.

(a) Positive means will be used to ensure that personnel not directly associated with the operation of a BDP laboratory, do not enter potentially hazardous areas.

(b) Written procedures to control access and ensure that personnel can be evacuated or protected from exposure, may be used in place of absolute personnel exclusion.

§ 626.14 Waivers and exemptions.

(a) The goal of the biological defense safety program is strict adherence to safety standards and the elimination of all waivers and exemptions.

(b) Waiver authority. (1) The Chief of Staff, Army (CSA) is the controlling authority for granting waivers of biological defense safety standards. This authority is redelegated by this regulation to Commanders of MACOMs and the Commander of the USAMRDC.

(2) Waiver authority will not be subdelegated.

(3) Commanders with waiver authority will:

(i) Ensure the existence of necessary and compelling reasons before granting waivers.

(ii) Grant waivers to standards for installations and activities within their areas of authority.

(c) Waiver requests. (1) Commanders of installations, activities, and other locations will submit a request for waiver when compliance with these standards cannot be achieved. When such waivers impact on other commands, initiating activities will coordinate requests with the other commands.

(2) Requests for waivers will contain the following information:

(i) Description of conditions. State the mission requirements and compelling reasons which make the waiver essential, the impact if not approved and a description of all affected sites/facilities, and the quantity and type BDP required.

(ii) The safety regulations, including specific safety requirements or conditions cited by paragraph, from which the waiver is requested and the reasons for the waiver.

(iii) Specific time period for which the waiver is requested.

(iv) A hazard analysis which identifies actual and potential hazards which can result from the waived requirements or conditions.

(v) A risk assessment that provides information on the risk being assumed as a result of the waiver. The assessment will include those safety precautions and compensatory measures in force during the waiver period.

(vi) A waiver abatement plan to include milestones, resources, and actions planned to eliminate the need for the waiver.

(3) Requests for waivers will be forwarded through command channels to the MACOM or CG, USAMRDC, as appropriate, for approval. MACOM or USAMRDC Safety Offices will forward a copy of approved waivers to HQDA, DACS–SF, WASH DC 20310–0200. Copies of all waivers will be maintained at the installation and MACOM or USAMRDC Safety Offices and up to three years after the waiver is terminated.

(4) Time limitations. (i) Waivers are normally limited to 1 year or less, and will be considered rescinded after 1 year, unless reviewed. The activity or installation commander forwarding a request for waiver will allow time to

permit investigation, evaluation, and reply.

(ii) Waivers may be renewed each year by the commander originally granting the waiver for a waiver period not to exceed 5 years. Prior to renewal, commanders will review the need for the waiver to ensure that circumstances requiring the waiver have not changed. Results of this review (and a progress report regarding milestones that have been completed) will be forwarded through command channels to the commander originally granting the waiver.

(iii) A request for amendment will be initiated when factors or circumstances requiring a change to the original waiver are identified.

(iv) When factors or circumstances prevent correction of the waiver condition within 5 years of an the initial approval of the waivered condition, such condition becomes a candidate for an exemption.

(d) Exemptions. (1) Exemptions are relatively long term exceptions to otherwise mandatory standards. Exemptions will be granted only under the following conditions:

(i) When corrective measures are impractical.

(ii) Where impairment of the overall defense posture would result.

(iii) When positive programs for eventual elimination of the need for the exemption are being pursued.

(2) Exemptions can be approved only by the Secretary of the Army.

(i) Requests for exemptions will be sent through command channels to HQDA, DACS–SF, WASH DC 20310–0200.

(ii) Exemption requests will include the information required in § 626.14(c)(2).

(iii) Copies of exemption requests will be maintained at the installation and MACOM or USAMRDC Safety Offices.

Subpart C—BDP Contractors

§ 626.15 General.

(a) The contracting agency will prepare written procedures for reviewing contractor capability to safely perform BDP work with etiologic agents.

(1) The written procedures will describe the criteria and guidelines for the preparation of the facilities description, safety requirements, special procedures and techniques, and inspection procedures.

(2) These written procedures will be submitted to the contracting agency MACOM for review and approval.

§ 626.16 Contracting agencies.

Contracting agencies, in coordination with their respective Command safety offices will monitor contractor performance in meeting safety requirements.

(a) The contracting agency will establish an inspection program and schedule for all BDP contractors who perform contract work with biosafety level 3 or 4. Inspections will be conducted by safety and health personnel. The schedule will include as a minimum the following:

(1) A pre-award inspection on site, prior to contract award, for initial contracts for BDP work requiring BL–3 or BL–4 operations. If during a pre-award inspection, major corrective measures are required, a reinspection is required prior to the beginning of contract operations.

(2) A pre-award inspection of follow-on BL–3 and BL–4 contracts.

(3) A pre-operational inspection if a major change in procedures, facilities or equipment is made after the pre-award survey.

(4) Annual inspection of BL–3 and semiannual inspections of BL–4 contractor facilities, equipment and operations.

(b) Pre-award surveys and annual inspections of contractors performing work requiring BL–3 or BL–4 will be conducted by safety and health professionals trained in BDP operational safety requirements. Pre-award surveys and annual inspections of BL–1 and BL–2 contractors will be conducted by safety and health professionals or contracting agency representatives who are trained in biological safety inspection techniques. The Safety Inspection Checklist in DA Pam 385–BIO will be used.

(c) The contracting agency will require each BDP contractor whose contract requires the use of etiologic agents, to prepare a facility safety program plan based on the criteria below, and submit the plan to the contracting agency for review prior to beginning BDP contract operations. The plan will describe the contractor organization, and procedures for meeting DOD, Army and contracting Command safety requirements as specified in the contract.

(1) A safety training program for all individuals working with etiologic agents must be documented by the contractor and include as a minimum, the requirements in § 626.7(e). Appropriate safety training will be provided to scientists, other laboratory personnel and unrelated personnel such as technicians, clerical and maintenance workers. This training will be documented.

(2) The contractor must have a designated and qualified individual responsible for the entire safety program with full authority to develop and enforce contractor safety policies. Regular safety inspections will be conducted and inspection reports will be provided to the contracting agency upon request.

(3) Policies for storage, handling, and movement of etiologic agents within the contractor facility shall be included in the plan.

(4) Policies and procedures for disposal of any etiologic agent waste must be identified. Disposal must be in compliance with Federal, state, and local regulations as well as DOD and Army requirements.

(5) An SOP must be established for each area where BDP etiologic agents are stored, transferred, or used. In addition, an SOP must be prepared for operations unique to any specific contract. The SOP will be made available by the contractor to contracting agency personnel upon request for review.

(6) For contracts requiring biosafety level 3 or 4, the contractor will provide (upon request) facility engineering drawings and specifications for the relevant etiologic agent containment areas, associated ventilation systems, and local approving authority. Also to be included is test data verifying the adequacy of all systems to meet the DOD and Army safety requirements, as well as test methods for periodic recertification of the system.

§ 626.17 Contractor changes.

Changes proposed by the contractor to the original safety documentation will be submitted to the contracting agency for review prior to implementation. Requests will include justification and test data verifying that adequate safety will be maintained.

§ 626.18 BDP contract requirements.

(a) Contractors performing work with BL–3 and BL–4 material will be required to prepare a plan detailing procedures for controlling laboratory mishaps involving etiologic agents.

(1) The contractor shall have the necessary equipment and trained personnel for controlling the mishap.

(2) In the event of an incidental release of a BDP etiologic agent from appropriate laboratory biocontainment that may result in personnel exposure, approved emergency procedures will be immediately initiated to effectively protect personnel and the environment, and to constrain spread of contamination. The affected areas will

be decontaminated before normal operations are resumed.

(3) Special medical surveillance will be started as soon as possible for all workers present in the potentially affected area at the time of the mishap.

(4) Local emergency support agencies, such as law enforcement, fire departments, health departments and governments will be informed of BDP activities and the appropriate support necessary, to include any equipment and training necessary, to provide effective emergency response. Agreements with external agencies must be formalized.

(5) The contractor shall be required to annually review the plan which will include external agencies if there is an agreement for them to provide assistance. This should be done in coordination with the contracting agency.

Subpart D—BDP Safety Studies and Reviews

§ 626.19 Safety studies and reviews.

(a) Safety studies and reviews are conducted to assure the incorporation of maximum safety and health measures to prevent mishaps involving BDP etiologic agents in any amount or under any conditions that may cause incapacitation, illness, or death to any person, or adverse effects on the pubic or to the environment.

(b) The system safety requirements of AR 385–16 will be followed during all BDP safety studies and review.

§ 626.20 Special studies.

Any HQDA agency may recommend a special study or review of an etiologic agent or system when it becomes necessary to investigate paragraphs (a), (b) and (c) of this section. The responsible HQDA agency will determine the scope and conduct the study or review. Special study activities will be coordinated with HQDA, DACS–SF, WASH DC 20310–0200.

(a) Conditions or practices which may affect safety.

(b) Major system modifications including both design and physical configuration changes.

(c) Significant changes to safety, health and environmental protection standards and requirements that affect BDP operations.

Appendix A to Part 626—References

Section I

Required Publications
AR 40–5
Preventive Medicine. (Cited para in § 626.7(e))
AR 40–400
Patient Administration. (Cited in § 626.6)
AR 385–10
Army Safety Program. (Cited in § 626.4(c), (g)(3) and (g)(5))
AR 385–16
System Safety Engineering and Management. (Cited in §§ 626.11(a) and 626.19(b))
AR 385–40
Accident Reporting and Records. (Cited in §§ 626.4(c)(10) and 626.6)
AR 415–15
Military Construction, Army (MCA) Program Development. (Cited in § 626.11)
DA Pam 385–69
Biological Defense Safety Program. (Cited in §§ 626.1(b), 626.4(g)(3), 626.4(g)(4), 626.5(b), 626.7(g)(1), 626.7(h)(1), 626.7(j), 626.8(b), 626.10(b) and 626.16(b))
DODI 6055.5–M
Industrial Hygiene and Occupational Health. (Cited in § 626.7(e))
Med 16 Report
(Cited in § 626.6)

Section II

Related Publications
A related publication is merely a source of additional information. The user does not have to read it to understand this regulation
AR 40–10
Health Hazard Assessment Program in Support of the Army Material Acquisition Decision Process
AR 70–1
Army Research, Development, and Acquisition
AR 70–10
Test and Evaluation During Development and Acquisition of Material
AR 70–18
The Use of Animals in DOD Programs
AR 70–25
Use of Volunteers as Subjects of Research
AR 70–65
Management of Controlled Substances, Ethyl Alcohol, and Hazardous Biological Substances in Army Research, Development, Test, and Evaluation Facilities
AR 200–1
Environmental Protection and Enhancement
AR 200–2
Environmental Effects of Army Actions
AR 405–90
Disposal of Real Estate
AR 1000–1
Basic Policies for Systems Acquisition

Appendix B—Glossary to Part 626

Section I—Abbreviations

AMC
U.S. Army Materiel Command
AR
Army regulation
ARSTAF
Army Staff
ASA (IL&E)
Assistant Secretary of the Army (Installations, Logistics and Environment)
ASA (RDA)
Assistant Secretary of the Army (Research, Development, and Acquisition)
BDP
Biological Defense Program
CG
commanding general
CSA
Chief of Staff, U.S. Army
DA
Department of the Army
DA Pam
Department of the Army Pamphlet
DASAF
Director of Army Safety
DCSOPS
Deputy Chief of Staff for Operations and Plans
DOD
Department of Defense
HQDA
Headquarters, Department of Army
IPR
in process reviews
MACOM
major Army command
MCA
Military Construction, Army
MCE
maximum credible event
OCSA
Office of the Chief of Staff, U.S. Army
R&D
research and development
RDT&E
research, development, test, and evaluation
SOP
standing operating procedure
TSG
The Surgeon General, Army
USACE
U.S. Army Corps of Engineers
USAMRDC
US Army Medical, Research and Development Command

Section II—Terms

BDP Mishap

A biological defense RDT&E mishap is an event in which the failure of laboratory facilities, equipment or procedure appropriate to the level of potential pathogenicity or toxicity of a given etiologic agent (organism or toxin) may allow the unintentional, potential exposure of humans or the laboratory environment to that agent. Mishap can be categorized into those resulting in confirmed exposure and those resulting in potential exposures. A confirmed accidental exposure is any mishap in which there was direct evidence of an exposure, such as a measurable rise in specific antibody titer to the etiologic agent in question, or a confirmed diagnosis of intoxication or disease. A potential exposure is any mishap in which there was reason to believe that anyone working with an etiologic agent may have been exposed to that agent, yet no measurable rise in specific antibody titer or diagnosis of illness or disease can be found. However, there is reason to believe in such a case that the possibility existed for introduction of an etiologic agent through mucous membranes, the respiratory tract, broken skin, or circulatory system as a direct result of the incident or injury.

Biocontainment area

An area which meets the requirements for a Biosafety Level 3 or 4 facility. The area may be an entire building, a suite of rooms, a

single room within a building, or a biological safety cabinet.

Biological Safety Cabinets

Engineering controls designed to enable laboratory workers to handle infectious etiologic agents and to provide primary containment of any resultant aerosol. There are three major classes of cabinets (I, II, and III) and several sub-classes of class II cabinets. Each type of cabinet provides a different degree of protection to personnel and to the products handled inside them.

Biosafety Level

A combination of facilities, equipment and procedures used in handling of etiologic agents that provides protection to the worker, environment and the community that is proportional to the potential hazard of the etiologic agent in question.

Biosafety Level 1

The facilities, equipment and procedures suitable for work involving agents of no known or of minimal potential hazard to laboratory personnel and the environment.

Biosafety Level 2

The facilities, equipment and procedures applicable to clinical, diagnostic or teaching laboratories, and suitable for work involving indigenous agents of moderate potential hazard to personnel and the environment. It differs from BL–1 in that (1) laboratory personnel have specific training in handling pathogenic agents, (2) the laboratory is directed by scientists with experience in the handling of specific agents, (3) access to the laboratory is limited when work is being conducted, and (4) certain procedures in which infectious aerosols could be created are conducted in biological safety cabinets or other physical containment equipment. Personnel must be trained. Strict adherence to recommended practices is as important in attaining the maximum containment capability as is the mechanical performance of the equipment itself.

Biosafety Level 3

The facilities, equipment and procedures applicable to clinical, diagnostic, research, or production facilities in which work is performed with indigenous or exotic agents where there is potential for infection by aerosol and the disease may have serious or lethal consequences. It differs from BL–2 in that (1) more extensive training in handing pathogenic and potentially lethal agents is necessary for laboratory personnel, (2) all procedures involving the manipulation of infectious material are conducted within biological safety cabinets, or by other physical containment devices, (3) the laboratory has special engineering and design features, including access zones, sealed penetrations, and directional airflow, and (4) any modification of BL–3 recommendations must be made only by the Commander.

Biosafety Level 4

The facilities, equipment and procedures required for work with dangerous and exotic agents which pose a high individual risk of life-threatening disease. It differs from BL–3 in that (1) members of the laboratory staff have specific and thorough training in handling extremely hazardous infectious agents, (2) laboratory personnel understand the primary and secondary containment functions of the standard and special practices, containment equipment, and laboratory design characteristics, (3) access to the laboratory is strictly controlled by the Commander, (4) the facility is either in a separate building or in a controlled area within a building, which is completely isolated from all other areas of the building, (5) a specific facility operations manual is prepared or adopted, (6) within work areas of the facility, all activities are confined to Class III biological safety cabinets or Class I or Class II biological safety cabinets used in conjunction with one-piece positive pressure personnel suits ventilated by a life support system, and (7) the maximum containment laboratory has special engineering and design features to prevent microorganisms from being disseminated to the environment.

Building

A structure that contains the requisite components necessary to support a facility that is designed according to the required Biosafety Level. The building can contain one or more facilities conforming to one or more Biosafety Level.

Confirmed Exposure

Any mishap with a BDP agent in which there was direct evidence of an actual exposure such as: a measurable rise in antibody titer to the agent, or a confirmed diagnosis of intoxication or disease.

Decontamination

The physical/chemical processes by which an object or area, contaminated with a harmful or potentially harmful etiologic agent, is made safe for handling or use. Such process includes physical removal of all contaminants, thermal destruction of biological activity (sterilization), chemical inactivation (biocidal process), or a combination of these methods.

Etiologic Agent

A viable microorganism, or its toxin which causes or may cause human disease, and includes those agents listed in 42 CFR 72.3 of the Department of Health and Human Services regulations, and any material of biological origin that poses a degree of hazard similar to those organisms.

Exemption

A permanent written exemption approved by HQDA for a requirement imposed by this regulation. An exemption is based on a determination that conformance to the established standard is impossible, highly impracticable, unnecessary, or not in the best interest of the U.S. Government.

First Aid

Any one-time treatment, and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such onetime treatment, and follow-up visit for observation, is considered first aid, even though provided by a physician or registered medical professional personnel.

High Efficiency Particulate Air Filter

A filter which removes particulate matter down to sub-micron sized particles from the air passed through it with a minimum efficiency of 99.97%. HEPA filters remove particulate matter with great efficiency while vapors and gases (for example from volatile chemicals) are not removed and pass through without restriction. HEPA filters are used as the primary means of removing infectious agents from air exhausted from engineering controls and facilities.

Institute Director

The commander of an Army activity conducting RDT&E with BDP etiologic agents, or the equivalent at a research organization under contract to the BDP.

Institution

An organization such as an Army RDT&E activity (Institute, Agency, Center, etc.,) or a contract organization such as a School of Medicine, or Research Institute that conducts RDT&E with BDP etiologic agents.

Laboratory

An individual room or rooms within a facility that provide space in which work with etiologic agents may be performed. It contains all of the appropriate engineering features and equipment required at a given Biosafety Level to protect personnel working in the laboratory and the environment external to the facility.

Potential Accidental Exposure

Any mishap in which there was reason to believe that anyone working with a BDP material may have been exposed to that material, yet no measurable rise in antibody titer or diagnosis of intoxication or disease was made. However, the high probability existed for introduction of an agent through mucous membranes, ingestion, respiratory tract, broken skin or circulatory system as a direct result of the accident, injury or incident.

Resource Conservation Recovery Act Listed Hazardous Waste

The waste materials listed by EPA under authority of the RCRA for which the disposal is regulated by Environmental Protection Agency. A description and listing of these wastes is located in 40 CFR part 261.

Sterilization

The complete destruction of all forms of microbial life.

Suite

An area consisting of more than one room, and designed to be a functional unit in which laboratory operations can be conducted. Suites may contain a combination of laboratories and/or animal holding rooms and associated support areas within a facility that are designed to conform to a particular Biosafety Level. There may be one or more suites within a facility.

Toxin

Toxic material of biologic origin that has been isolated from the parent organism. The toxic material of plants, animals or microorganisms.

Waiver

A temporary (1 year or less) written relief from a requirement imposed by this regulation, pending accomplishment of actions or programs which will result in conformance to the required standards. Waivers will not be extended beyond five years.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

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Reader Aids

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Monday, January 28, 1991

INFORMATION AND ASSISTANCE

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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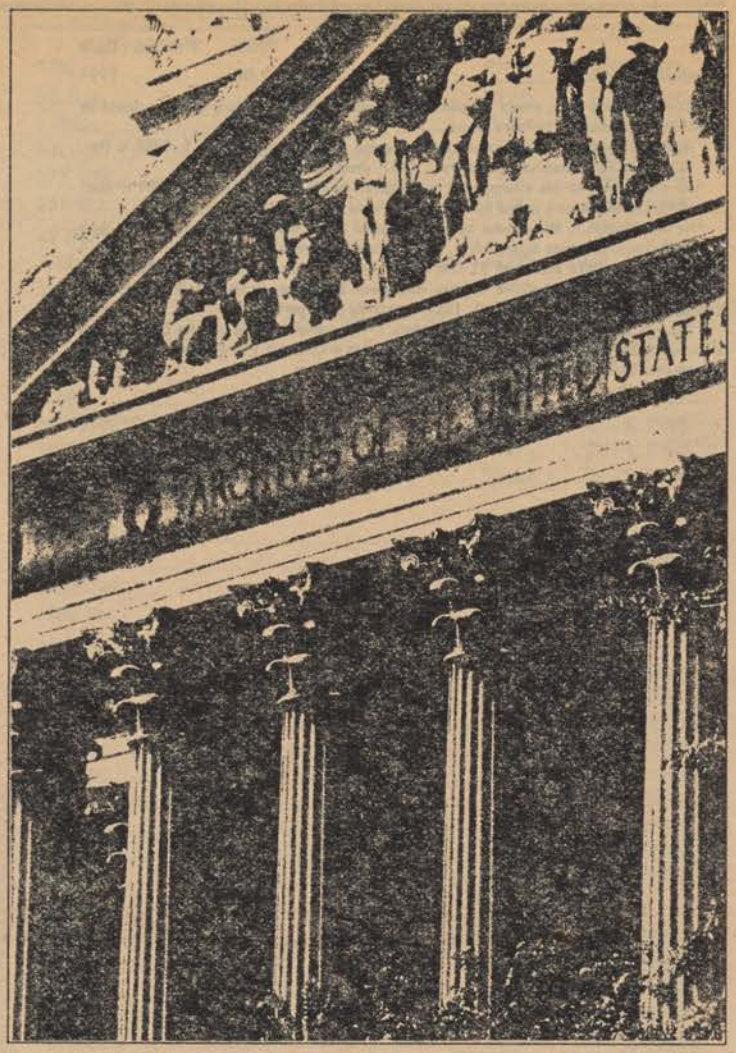

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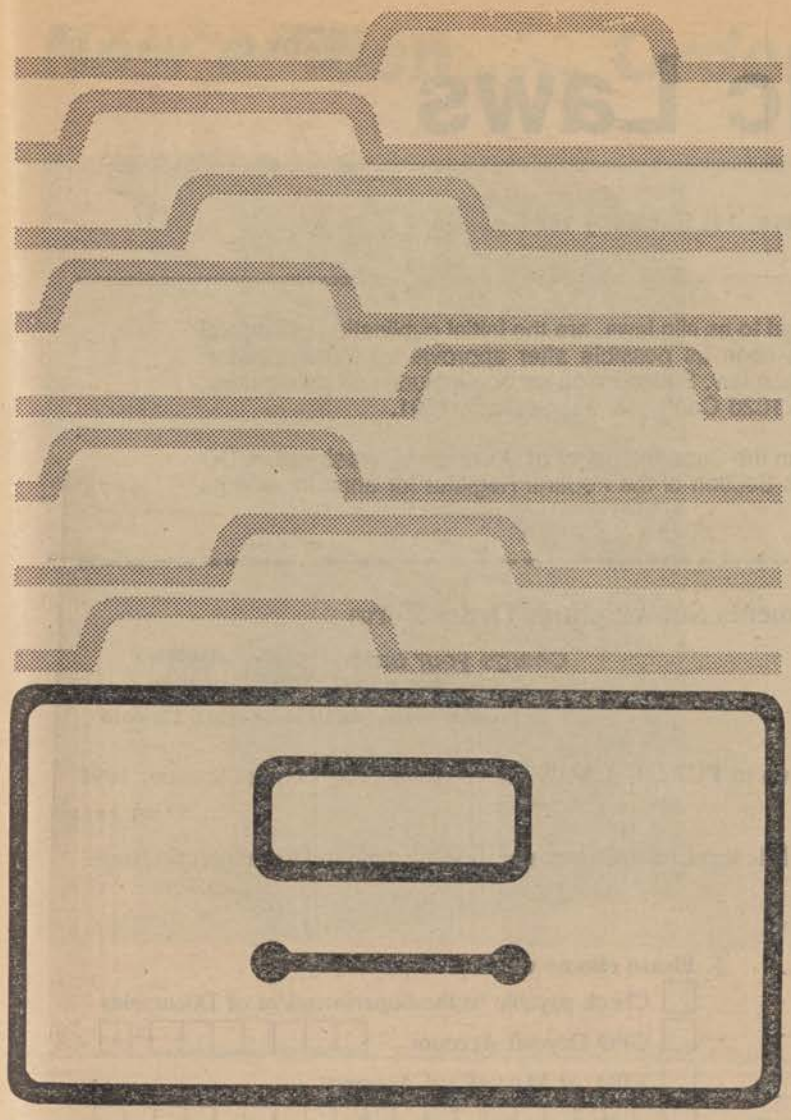

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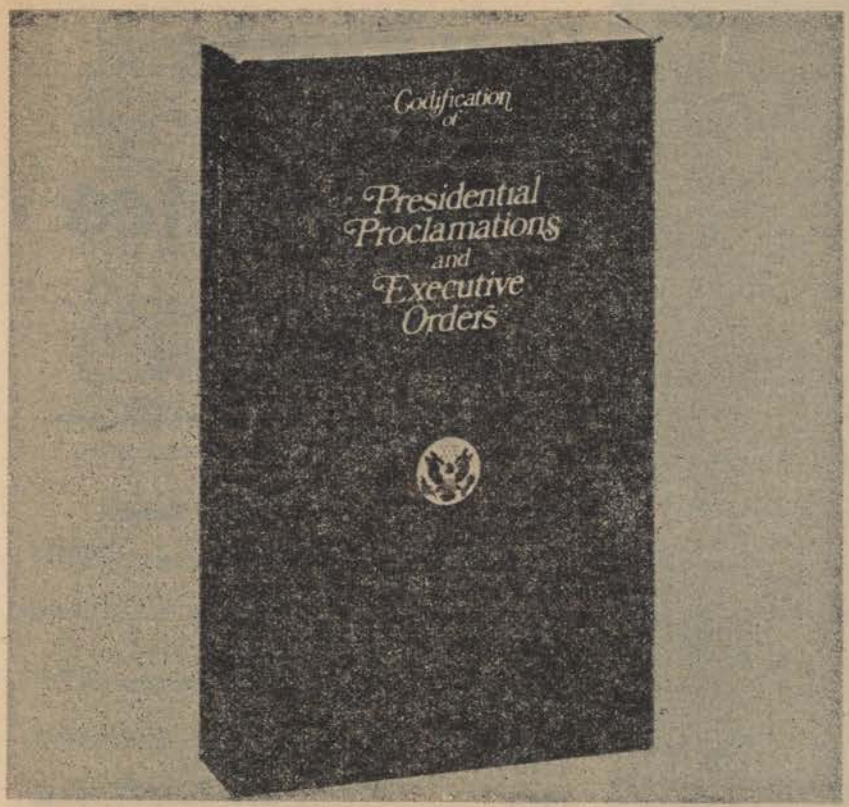

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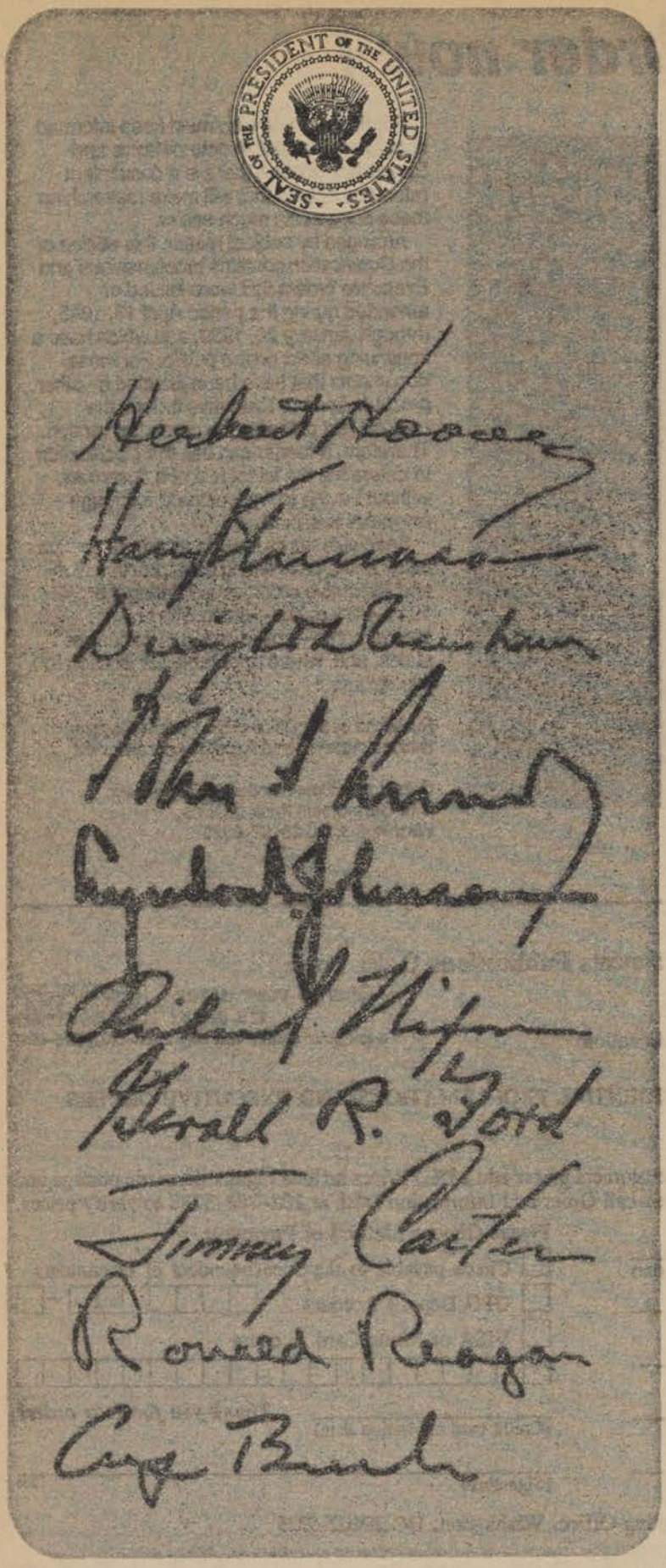

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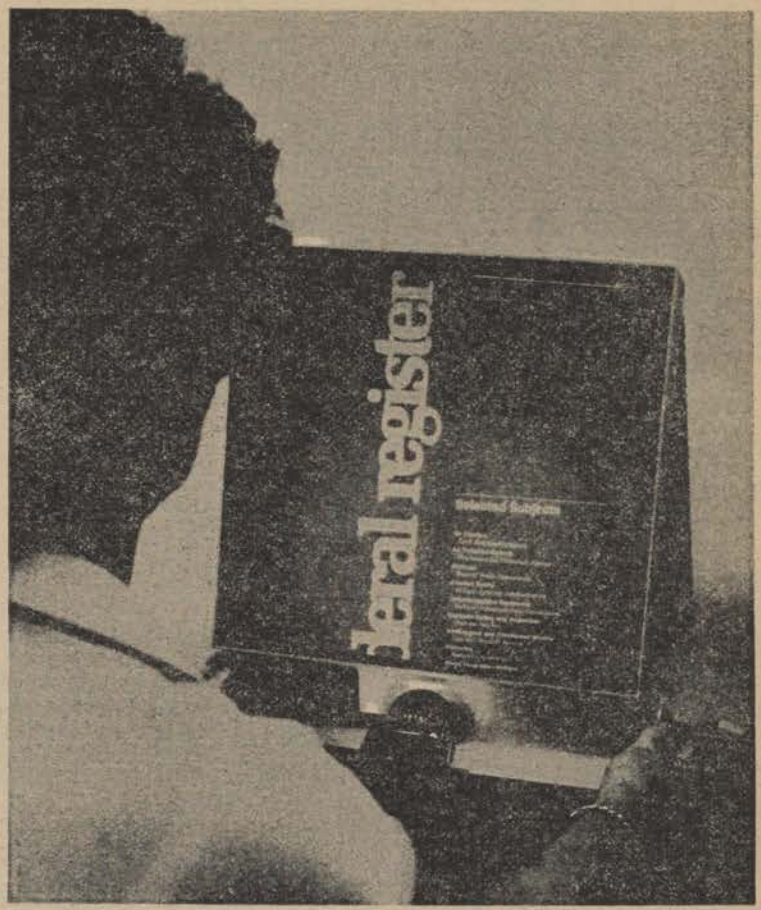

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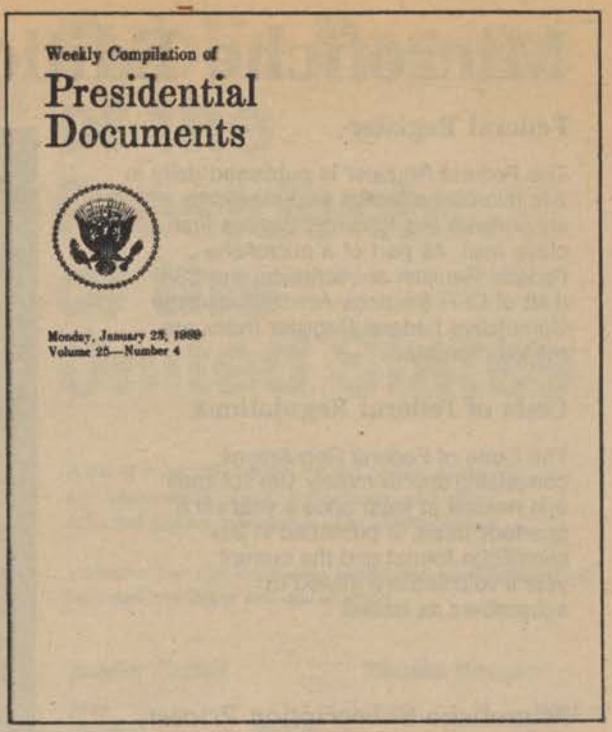

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